

BOARD OF MAYOR AND ALDERMEN

August 6, 2002

7:30 PM

Mayor Baines called the meeting to order.

The Clerk called the roll.

Present: Aldermen Wihby, Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil,
Lopez, Shea, DeVries, Garrity, Smith, Thibault (late) and Smith

Mayor Baines stated we had already begun the earlier meeting starting at 6 PM with a moment of silence but it would be very appropriate at this time to acknowledge the passing of former Alderman, School Board Member, County Commissioner, County Treasurer and distinguished citizen, John McDonough who passed away a week or so ago.

CONSENT AGENDA

Mayor Baines advised if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Approve Under Supervision of the Department of Highways

- A.** Verizon Pole Petitions of 12 new poles (456/161, 456/161PB, 456/159, 456/158, 456/164, 456/163, 456/167, 456/165, 456/169, 456/168) on Brown Avenue, one (480/4) replacement pole on Coldwell Street, and two new poles (480/2 and 480/1) on Coldwell Street.

Approve Under Supervision of the Department of Highways - Subject to the Availability of Funding

- B.** Sidewalk Improvement Petitions 50/50 Program.

Informational - to be Received and Filed

- C.** Communication from State Representative Flanders advising that the next meeting of the Task Force on re-establishing the Lawrence, MA to Manchester, NH and Concord to Lebanon Rail Service will be held on Wednesday, August 28, 2002 at 10:00 AM in the Legislative Office Building in Room 203.
- D.** Communication from State Representative Vaillancourt providing an analysis of the recent Supreme Court ruling relative to the House redistricting.

Informational - to be Received and Filed (forwarded to the Mayor's Office)

- E. Communication from the Danville Board of Selectmen relative to a coalition of "Receiver Towns" inquiring as to whether there is an interest on the part of Manchester to participate.

Informational - to be Received and Filed (forwarded to Water Works)

- F. Communication from William Laforge advising that the handle to his shutoff valve was broken by a Water Department employee during the installation of a new water meter and requesting that the matter be resolved as quickly as possible.

REFERRALS TO COMMITTEE

COMMITTEE ON FINANCE

- G. Communication from Deputy City Clerk Johnson, on behalf of the City Clerk, requesting the Board transfer \$34,000 from Contingency to the City Clerk budget to cover costs relative to the September 3, 2002 Special Municipal Election and providing an update relating to election issues.
- H. Communication from Everett Godbois, Moderator of Ward 11, requesting the Board revisit the proposal(s) relative to an increase in pay for election workers.
- I. Resolutions:
 - "Amending the FY2002 Community Improvement Program, authorizing and appropriating funds in the amount of Forty Four Thousand Four Hundred Dollars (\$44,400) for FY2002 CIP 613102 Millyard Improvement Project."
 - "Amending the FY2002 Community Improvement Program, authorizing and appropriating funds in the amount of Thirty Six Million Nine Hundred Thirty Two Thousand Nine Hundred Fifty Six Dollars (\$36,932,956) for FY2002 CIP 711702 Airside Improvements Project and 711802 Equipment Replacement Project."

REPORTS OF COMMITTEES

**COMMITTEE ON ACCOUNTS, ENROLLMENT
AND REVENUE ADMINISTRATION**

- J. Advising that it has accepted the Fiscal Year 2002 Audit Plan from McGladrey & Pullen, LLP.
- K. Advising that it has accepted the monthly financial statements for period ending June 30, 2002 and is forwarding same to the Board for informational purposes.
- L. Advising that it has accepted the monthly CIP report for the twelve months ended June 30, 2002 and is submitting same to the Board for informational purposes.

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- M.** Recommending that a request from Robin Bonneau on behalf of Riverfest, Inc. seeking approval for the following:
- 1) the area bordered by the Merrimack River to Elm Street, the north side of Granite Street to the south side of Auburn Street, and all streets contained therein, including all of South Commercial and South Bedford Streets be designated as the “Riverfest Area”; and
 - 2) direct the Office of the City Clerk to not issue permits to any vendors within the “Riverfest Area”
- be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.

COMMITTEE ON BILLS ON SECOND READING

- N.** Recommending that Ordinance Amendments:
- “Amending Section 33.046 ((F) Entrance Pay Rates of the Code of Ordinances of the City of Manchester.”
- “Amending Section 33.081 (H) (4) Sick Leave of the Code of Ordinances of the City of Manchester.”
- “Amending Section 33.063 Temporary and Seasonal Employees of the Code of Ordinances of the City of Manchester.”
- “Amending Section 33.075 (Holidays) of the Code of Ordinances of the City of Manchester.”
- “Amending Section 33.079 (Vacations) of the Code of Ordinances of the City of Manchester.”
- “Amending Section 33.081 (Sick Leave) of the Code of Ordinances of the City of Manchester.”

ought to pass.

- O.** Recommending that Ordinance Amendment:
- “Amending Section 52.116 of Chapter 52 Sewers by decreasing the off-site sewer improvement cost recovery fee of the Hackett Hill Road area.”

ought to pass.

- Q.** Recommending that Ordinance Amendment:
- “Amending the Code of Ordinances of the City of Manchester by creating §118.12(C)(8), Standards for denial, prohibiting registered sexual offenders from obtaining a license to drive a taxicab in the City of Manchester.”

ought to pass.

R. Recommending that Ordinance:

“An Ordinance repealing ‘An Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester’ and Amending the Code of Ordinances of the City of Manchester by deleting Chapter 70 in its entirety and replacing same with a new Chapter 70 Motor Vehicles and Traffic.”

ought to pass.

COMMITTEE ON COMMUNITY IMPROVEMENT

- S.** Recommending that the Special Committee on Anti-Graffiti be re-established. Chairman O’Neil has advised that he will appoint a Chair to the Committee and will name other Aldermanic, staff and public representatives.
- T.** Recommending that the Board authorize acceptance and expenditure of Federal funds in the amount of \$44,400.00 for the 2002 CIP 613102 Millyard Improvement Project, and for such purpose a resolution and budget authorization has been submitted.
- U.** Recommending that the Board authorize acceptance and expenditure of funds in the amount of \$36,932,956 from Airport revenues for FY2002 CIP 711702 Airside Improvements Project and 711802 Equipment Replacement Project; and for such purpose a resolution and budget authorization has been submitted.
- V.** Recommending that with regard to a petition to discontinue a portion of Beech Street between Whitford Street and Walnut Hill Avenue, the Board find that the portion of Beech Street between Whitford Street and Walnut Hill Avenue does not have any public status and does not need to be discontinued, however per RSA 231:46 the existing utilities shall remain in effect as an encumbrance upon the underlying land for so long as they remain in active use.
- W.** Recommending that a petition to discontinue a portion of Bryant Road be referred to the next Road Hearing to be scheduled by the City Clerk.
- X.** Recommending that with regard to a petition to discontinue Carleton Street, the Board find that Carleton Street, having never been opened, built, nor used for public travel has been released from public servitude pursuant to RSA 231:51, however per RSA 231:46 the existing sewer line and water main shall remain in effect as an encumbrance upon the underlying land for so long as it remains in active use.
- Y.** Recommending that with regard to a petition to discontinue a portion of Merrill South Back Street, the Board find that Merrill South Back Street, having never been opened, built, nor used for public travel has been released from public servitude pursuant to RSA 231:51, however per RSA 231:46 the existing sewer line and water main shall remain in effect as an encumbrance upon the underlying land for so long as it remains in active use.

COMMITTEE ON JOINT SCHOOL BUILDINGS

- Z.** Advising that it has approved award of the contract for the Memorial High School Media Center in the amount of \$1,190,435.00 to Fulcrum Associates of Amherst, NH and award of the contract for the McDonough Elementary School Kindergarten Addition in the amount of \$722,675.00 to Ferd Construction of Hollis, NH.

COMMITTEE ON LANDS AND BUILDINGS

- AA.** Recommending that a survey be completed of the boundary line of Riverfront Drive in the area of Interstate Restaurant Equipment, Inc. and that a boundary line agreement be entered into between the City and Interstate Restaurant Equipment, Inc., subject to the review and approval of the City Solicitor.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- AB.** Recommending that a request to close a portion of East Industrial Park Drive turning onto Holt Avenue and Pepsi Road on Sunday, August 11, 2002 in conjunction with the Granite State Senior Games road race and cycling event be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.
- AC.** Recommending that a request to close the alleyway behind 122 Market Street on Saturday, August 17, 2002 in conjunction with a summer event planned for Families in Transition be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.
- AD.** Recommending that a request to close Merrimack Street from Elm Street to the point at which Veterans Park begins on Thursday, August 29, 2002 beginning at 4 PM until 11 PM in conjunction with the sponsorship of Merrimack Volvo during the Peter Frampton Concert be granted and approved under the direct supervision of the Police Department and the Business Licensing Division of the Office of the City Clerk.
- AE.** Recommending that a request to close a portion of William Loeb Drive, Holt Avenue, East Industrial Park Drive, Candia Road, Proctor Road, Lake Shore Road and Island Pond Road on Saturday, September 7, 2002 from 9 AM to 11 AM in conjunction with *The Union Leader* Class Road Race to benefit the American Heart Association be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.
- AF.** Recommending that a request from Riverfest, Inc. for a fireworks display off of the Granite Street Bridge on Saturday, September 7, 2002 and the closure of the Granite Street Bridge and use of the South Commercial Street Parking Lot be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments and any other permits required through the State.
- AG.** Recommending that a request for the closure of streets (as yet to be determined) in the vicinity of City Hall Plaza on Wednesday, September 11, 2002 in conjunction with Patriot Day observance be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.
- AH.** Recommending that a request to close various streets from 10 AM to 11 PM on September 13, 14 & 15, 2002 in conjunction with the annual Glendi celebration be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.

- AI.** Recommending that the City extend the current contract with Central Parking Corporation (National Garages) for the daily operations of the Canal Street and Victory Parking Garages through November 7, 2002.
- AJ.** Recommending that regulations governing standing, stopping, parking and operation of vehicles be adopted and put into effect when duly advertised and posted.

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN O'NEIL, DULY SECONDED BY ALDERMAN WIHBY, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

P. Report of Committee on Bills on Second Reading recommending that Ordinance Amendment:

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

ought to pass and layover.

Alderman Lopez stated I just want to get a clarification from the City Clerk's Office and Matt Normand in particular in reference to the 10 PM curfew and the fees. From what I understand, I would like you to either verify yes or no but the way I understand the process in the Committee on Administration is that anyone such as let me give you a couple of examples – Veteran's Park or Riverfest where a non-profit organization comes in and gets a permit and asks you to waive the fee or goes beyond 10 PM or whatever the case the Committee on Administration does have the authority to approve that. You would have to deny it and then it would go to the Committee on Administration. Is that correct?

Deputy Clerk Normand replied not exactly. If a non-profit comes to our office and requires a permit...local non-profits that do not own property in the City of Manchester are exempt from the fee so they are still required to have the license but they won't be charged the amount because they are a local non-profit. As far as the 10 PM curfew goes, that is correct. The way the ordinance is currently written our office would have to deny the permit and then the Committee on Administration would have the ability to uphold the denial or increase the time limit to whatever they deem necessary. Those are the two issues.

Mayor Baines stated my question is the Downtown Jazz Festival. That is all volunteers, we are all volunteers who organize that and the venue usually ends at 11 PM so they would have to come in to get a waiver on the time?

Deputy Clerk Normand responded the way it is currently written they would be required to have a waiver on that beyond 10 PM.

Alderman Wihby asked should we just send this back to the Committee so we can review it again. I think we could tweak it a little to make everybody happy. This went to Bills on Second Reading but it was done on a voice vote rather than talked about by the Committee.

Alderman Wihby moved to refer the ordinance back to the Committee on Bills on Second Reading. Alderman Shea duly seconded the motion.

Alderman O'Neil stated this is the second or maybe third item that the Committee on Administration has worked long and hard on, we asked staff and some volunteers to work with us and then as it comes to its final stage people come out and say you missed this and you missed that. If it goes back to Administration, can people present all of the information? We put in a lot of hours on many of these ordinances and we seem to get beat up when they come to the full Board. I would just ask that people present all of the information to the Committee so we can make a fair judgement on it. Thank you, your Honor.

Alderman Lopez stated I just want to make it very clear that I was only interested as to whether the Committee could waive the fee or waive the time element and you have answered that question. I think with Matt doing it and denying somebody, I think a call to the Chairman and if he decides it is a phone call vote if he doesn't have enough time because of the event that is going on...I think the procedure there and I was more concerned with that then sending it back to Committee.

Deputy Clerk Johnson stated I just want to clarify for the record that it is the Bills on Second Reading Committee that it is going back to you.

Alderman O'Neil stated that wasn't the motion, your Honor.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Nominations to be presented by Mayor Baines, if available.

There were none available.

On motion of Alderman Thibault, duly seconded by Alderman Shea, it was voted to recess the regular meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

A report of the Committee on Finance was presented recommending that Resolutions:

“Amending the FY2002 Community Improvement Program, authorizing and appropriating funds in the amount of Forty Four Thousand Four Hundred Dollars (\$44,400) for FY2002 CIP 613102 Millyard Improvement Project.”

“Amending the FY2002 Community Improvement Program, authorizing and appropriating funds in the amount of Thirty Six Million Nine Hundred Thirty Two Thousand Nine Hundred Fifty Six Dollars (\$36,932,956) for FY2002 CIP 711702 Airside Improvements Project and 711802 Equipment Replacement Project.”

ought to pass and be enrolled.

The Committee further recommended that \$34,000 be transferred from Contingency to the City Clerk budget to cover costs related to elections and that the amount of \$12,210 be transferred from Contingency and that a flat rate increase be given to election workers based on proposal three.

On motion of Alderman Smith, duly seconded by Alderman Osborne, it was voted to accept, receive and adopt the report.

Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by amending Article 10-Off Street Parking and Loading Requirements, Section 10.03 by increasing the required stacking spaces for car wash and car care with automatic or drive-thru services from 5 to 10 stacking spaces.”

“Amending Section 33.046 ((F) Entrance Pay Rates of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.081 (H) (4) Sick Leave of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.063 Temporary and Seasonal Employees of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.075 (Holidays) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.079 (Vacations) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.081 (Sick Leave) of the Code of Ordinances of the City of Manchester.”

“Amending Section 52.116 of Chapter 52 Sewers by decreasing the off-site sewer improvement cost recovery fee of the Hackett Hill Road area.”

“Amending the Code of Ordinances of the City of Manchester by creating §118.12(C)(8), Standards for denial, prohibiting registered sexual offenders from obtaining a license to drive a taxicab in the City of Manchester.”

“An Ordinance repealing ‘An Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester’ and Amending the Code of Ordinances of the City of Manchester by deleting Chapter 70 in its entirety and replacing same with a new Chapter 70 Motor Vehicles and Traffic.”

On motion of Alderman Thibault, duly seconded by Alderman Lopez, it was voted to suspend the rules and dispense with reading by titles only.

These Ordinances having had their second presentation, Alderman O’Neil moved on passing same to be Enrolled. Alderman DeVries duly seconded the motion. There being none opposed, the motion carried.

On motion of Alderman Shea, duly seconded by Alderman Lopez, it was voted to recess the regular meeting to allow the Committee on Accounts, Enrollment and Revenue Administration to meet.

Mayor Baines called the meeting back to order.

A report of the Committee on Accounts, Enrollment and Revenue Administration was presented advising that Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by amending Article 10-Off Street Parking and Loading Requirements, Section 10.03 by increasing the required stacking spaces for car wash and car care with automatic or drive-thru services from 5 to 10 stacking spaces.”

“Amending Section 33.046 ((F) Entrance Pay Rates of the Code of Ordinances of the City of Manchester.”

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“An Ordinance repealing ‘An Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester’ and Amending the Code of Ordinances of the City of Manchester by deleting Chapter 70 in its entirety and replacing same with a new Chapter 70 Motor Vehicles and Traffic.”

were properly enrolled.

On motion of Alderman Shea, duly seconded by Alderman DeVries, it was voted to accept, receive and adopt the report.

Communication from Kevin Dillon, Airport Director, seeking authorization to further negotiate and execute a property exchange with the Chester R. Ham Revocable Trust (Chester Ham) of approximately 1.0 acre of land located in north Londonderry identified as Tax Map 14, Lot 16 in exchange for approximately 0.7 acres of property that includes right-of-way critical for the Harvey Road realignment.

On motion of Alderman DeVries, duly seconded by Alderman Sysyn, it was voted to authorize such negotiations and execution of property exchange, subject to the review and approval of the City Solicitor.

Communication from Kevin Dillon, Airport Director, requesting authorization to allow him to negotiate and execute an agreement with outside legal counsel for various Airport projects.

Alderman Forest moved to authorize the Airport Director to negotiate and execute an agreement with outside legal counsel. Alderman Thibault duly seconded the motion.

Solicitor Clark stated I have had discussions with the Airport Director on this matter. I believe we are in complete agreement that with the way the Airport has been expanding and with the events that have occurred in the last year and the intervention of the Federal government, there are critical needs at times for immediate assistance of a specialized nature. I agree with him that it makes sense to bring a law firm under agreement for use. We have agreed that I will go out and issue an RFP for a law firm with his concurrence and that I will select the airport projects that the law office will be called to work on.

Mayor Baines stated that then was the motion and called for a vote. There being none opposed, the motion carried.

Communication from Deputy City Clerk Johnson submitting a return of warrant for non-renewal of dog licenses pursuant to RSA 466:16.

On motion of Alderman Garrity, duly seconded by Alderman Osborne, it was voted to approve the return of the warrant.

Communication from Thomas Seigle, EPD, requesting an easement be granted by PSNH in order to construct Contract 3 of the Cohas Interceptor Phase I.

On motion of Alderman Pinard, duly seconded by Alderman DeVries, it was voted to authorize the Mayor to execute said agreement and consent to joint use on behalf of the City, subject to the review and approval of the City Solicitor.

Bond Resolutions:

“Authorizing Bonds, Notes or Lease Purchases in the amount of Seven Hundred Sixty Five Thousand Dollars (\$765,000) for the 2003 CIP 510603, Livingston Park Pool & Bathhouse Project.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of One Million Three Hundred Thousand Dollars (\$1,300,000) for the 2003 CIP 510803, Derryfield Country Club Rehabilitation Projects.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Two Hundred Thirty Five Thousand Dollars (\$235,000) for the 2003 CIP 510903, Gill Stadium Rehabilitation Project.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) for the 2003 CIP 511003, JFK Coliseum Rehabilitation Project.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Five Hundred Thousand Dollars (\$500,000) for the 2003 CIP 511103, West Side Ice Arena Rehabilitation Project.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Three Hundred Thirty Five Thousand Dollars (\$335,000) for the 2003 CIP 511203, Park Capital Improvement Program.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Four Million Three Hundred Thirty Thousand Dollars (\$4,330,000) for the 2003 CIP 710203, CSO Projects.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Seven Hundred Thousand Dollars (\$700,000) for the 2003 CIP 711703, Granite St. Road/Bridge Widening Program.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Five Hundred Fifty Five Thousand Dollars (\$555,000) for the 2003 CIP 711503, TIP Improvement Project (Candia Road Construction) Program.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Three Million Six Hundred Thousand Dollars (\$3,600,000) for the 2003 CIP 711703, Cemetery Brook Collector Rehabilitation Program.”

“Authorizing Bonds, Notes or Lease Purchases in the amount of Two Million Four Hundred Thousand Dollars (\$2,400,000) for the 2003 CIP 811103, Senior Center Program.”

On motion of Alderman Thibault, duly seconded by Alderman Shea, it was voted to suspend the rules and dispense with reading by titles only.

On motion of Alderman Pinard, duly seconded by Alderman Lopez, it was voted that the Bond Resolutions pass and be Enrolled.

Alderman Shea asked in regards to the authorization of Bonds in the amount of \$555,000 for the FY2003 CIP project at Candia Road, do we have any estimate as far as how much this will ultimately cost because I realize that the higher the cost the larger the contribution as far as the City is concerned. In other words, if it were a \$1 million I believe we contribute 20% and if it is a \$5 million we contribute 20% of \$5 million. Is there any estimate, Bob MacKenzie, as far as how much ultimately we will be spending on this project?

Mr. MacKenzie answered we did just receive notice that the estimate from the State of New Hampshire has gone up. I know that I was in discussion...the Mayor's Office contacted me about the possible impact on our funding. The earlier funding estimate was roughly \$6 million. That has gone up to over \$7 million and, therefore, the request for the City's share will be going up fairly significantly. The Mayor's Office did ask me to contact Mr. Thomas and review the matter as to whether the State could perhaps revalue or reengineer the project to lower the price.

Alderman Shea asked this project is how long in duration.

Mr. MacKenzie answered this would probably be roughly a two year construction project from acquisition through completion.

Alderman Shea asked and when will the acquisition and the initial phase begin or has it begun. I know they are working over there.

Mr. MacKenzie answered it is ready to go shortly.

Alderman Shea asked so the expenditure would be divided over this fiscal year and the next fiscal year. Is that what you are saying?

Mr. MacKenzie answered that is correct.

Resolutions:

“Amending the FY2002 Community Improvement Program, authorizing and appropriating funds in the amount of Forty Four Thousand Four Hundred Dollars (\$44,400) for FY2002 CIP 613102 Millyard Improvement Project.”

“Amending the FY2002 Community Improvement Program, authorizing and appropriating funds in the amount of Thirty Six Million Nine Hundred Thirty Two Thousand Nine Hundred Fifty Six Dollars (\$36,932,956) for FY2002 CIP 711702 Airside Improvements Project and 711802 Equipment Replacement Project.”

On motion of Alderman Smith, duly seconded by Alderman Osborne, it was voted to read the Resolutions by title only, and it was so done.

On motion of Alderman O'Neil, duly seconded by Alderman Thibault, it was voted that the Resolutions pass and be Enrolled.

Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by amending Article 10-Off Street Parking and Loading Requirements, Section 10.03 by increasing the required stacking spaces for car wash and car care with automatic or drive-thru services from 5 to 10 stacking spaces.”

“Amending Section 33.046 ((F) Entrance Pay Rates of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.081 (H) (4) Sick Leave of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.063 Temporary and Seasonal Employees of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.075 (Holidays) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.079 (Vacations) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.081 (Sick Leave) of the Code of Ordinances of the City of Manchester.”

“Amending Section 52.116 of Chapter 52 Sewers by decreasing the off-site sewer improvement cost recovery fee of the Hackett Hill Road area.”

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“An Ordinance repealing ‘An Ordinance Regulating Traffic Upon the Public Streets of the City of Manchester’ and Amending the Code of Ordinances of the City of Manchester by deleting Chapter 70 in its entirety and replacing same with a new Chapter 70 Motor Vehicles and Traffic.”

On motion of Alderman Lopez, duly seconded by Alderman Pinard, it was voted to suspend the rules and dispense with reading by titles only.

These Ordinances having had their final reading by title only, Alderman Shea moved on passing same to be Ordained. Alderman Lopez duly seconded the motion. There being none opposed, the motion carried.

TABLED ITEMS

Communication from Jay Taylor, Economic Development Director, requesting to expend an additional \$5,000 in Manchester AirPark funds to complete appraisals related to the proposed Courthouse Square project for a total authorization of \$15,000 based on the lowest of the two proposals received.

This item remained on the table.

Report of the Committee on Accounts, Enrollment and Revenue

Administration advising that it has accepted the following Board of Assessors reports:

- 1) update of tax base;
 - 2) status of overlay;
 - 3) status of outstanding abatements;
 - 4) status of tax appeals; and
 - 5) status of exemptions and payment in lieu of taxes
- and is forwarding same to the Board for informational purposes.

On motion of Alderman Lopez, duly seconded by Alderman Shea, it was voted to remove this item from the table.

Alderman Lopez asked are the Assessors here.

Mayor Baines answered yes I asked all three to be in attendance. Please come forward, gentlemen.

Alderman Lopez stated we received a communication in reference to a directive that the Mayor had given to department heads in reference to \$2 million and at the same time we have what was reported in the *Union Leader* for an additional 59 cents, I believe...I was wondering if the Assessor's Office could explain to us how such a drastic situation could come up like this.

Mr. Tellier stated what occurred was we brought in CLT for some review work in late March. Regretfully some of that review work was not implemented in the opinion of value that was given to this Board for budget purposes. As the Chairman of the Board of Assessors, I take responsibility for that. A mistake was made. I regret the ramifications and apologize to this Board for the tough decisions that will have to be made. However, the fact still remains that the exposure to the City as a result of those assessment appeals is still valid and a contributing factor to that reduction was also an increase in approximately \$16 million in the exemptions. The remaining balance of that \$50 to \$55 million was on the appeals.

Alderman Lopez asked when did the Assessors really find out about this. Was this during the budget process or after the budget process?

Mr. Tellier answered the review work that was done by the revaluation firm...some initial review work was done in late March. The magnitude of the difference became apparent when we had put together all of the numbers for the Accounts and Enrollment Committee meeting.

Alderman Lopez stated this puts us in a very bad situation especially with the cuts we have already done with the departments and now we have to find \$2 million. I commend you for taking responsibility for the mistake. The problem in reference to the abatement account...have all of the abatements been done and what is the final date that the abatements have to be done?

Mr. Tellier replied as of March 1 we had approximately 1,645 total appeals filed. Of that number, we have processed approximately 700 to date. The remaining balance still has to be processed. Now what has been handled to date are the most egregious and there are still some pretty substantial cases out there. However, out of the remaining balance there are a great many of them that may not have a great deal of merit and are without supporting documentation so the amount of the adjustment will go down as we continue to go through that list. To answer your question briefly, Alderman, we have about 1,100 still to review.

Alderman Lopez asked and of that 1,100 that you have left to review does that have any bearing on increasing the tax rate again. Did the revaluation company go out and review any and tell you about any ones that might be in doubt that were going to increase?

Mr. Tellier replied to answer that question they worked with us a couple of weeks ago on some very high profile properties and we have worked diligently to reconcile the number that we are pretty consistent on now and I believe my colleagues agree.

Mr. Porter stated I would just like to commend Steve for coming forward and acknowledging that...I won't say at this point a proper or an improper procedure was done in analyzing the tax base. As you know an estimate is an estimate. It is the best information we have at the time. I think the issue here is one of timing. There is no error in the tax base. Whether this came forward in April or May or June or July or October, the tax base will be what it is going to be. I think the timing is an issue because the prerogatives of the Board of Mayor and Aldermen were somewhat usurped by the decision made after the budget was finalized to make an adjustment. Had this number been brought forward in May or June, the Board of Mayor and Aldermen would have had an opportunity to react. Either cut the budget, live with the increase or a blend. At any rate, the tax base will be in my opinion between \$5.125 billion and \$5.130 billion. Now had you known this in April or May or June, you could have reacted. Would I be angry if I were you? Absolutely because you answer directly to the taxpayers.

Mayor Baines stated I would like to just ask one question and then allow you to continue. The thing that perplexed me about this and obviously having had discussions that the rest of the Board was not privy about, that when you meet as a Board it was brought to my attention during these meetings that we had when we were trying to get at why this occurred that there had been many discussions. In fact so many discussions that Mr. Nichols said I thought the analysis had been done we discussed it so much.

Mr. Porter replied that is correct.

Mayor Baines stated the issue is not to me that somebody has made an error. Of course anybody can make an error. The issue is that as the Board of Assessors you had the opportunity during your meetings talking about this issue on many different occasions and yet the analysis was not done. I think that is what perplexes me and in talking to people in the community they can accept the fact that mistakes were made but the fact that as an experienced Board of Assessors you discussed doing the analysis several times during your meetings and yet it was never done – that is really the issue that concerns me as Mayor.

Mr. Porter replied that is correct and to beat a dead horse isn't going to accomplish a goal. You can hang us from the highest steeple and the tax base won't change. I think the problem exists is where the overlapping duties of a Board of Assessors and a department exist with our office. I believe the Mayor has some indication to make some changes. I am not going to promote for or against. I think part of the problem is, is this a Board issue to add up a column of figures or is it a department issue and I think Steve has solved that by saying that he accepts the responsibility for not adding up that column of figures. Had that column of figures been added up and looked at, it may have...I can't guarantee it but it may have resulted in a different projection. As a Board, we recognize the pain that it has caused and I say a Board because we have talked about it at length. We understand. This is my 22nd tax base projection and I realize there are problems. After a revaluation...a revaluation is like an earthquake. You have the main blast. You don't know when the tremors are going to occur and you don't know to what magnitude. After a revaluation you are going to have reductions and I don't mean to single out Alderman Gatsas but I will. Alderman Gatsas is knowledgeable in real estate and I think when Alderman Gatsas has been called on and I hope you don't mind Alderman because I know your expertise in the real estate field, when he is asked to do an appraisal on a piece of property he understands there is a range. Now can he come in on the range? More often than not he will be fairly accurate but to be exactly and to be precise depends upon a number of factors that are uncontrollable by the person making the prediction. I hate to trivialize this but it is like a weather forecaster predicting a hurricane will land somewhere between Florida and Maine and it hits in Greenland. The Board of Assessors or the Assessors as appraisers – we don't create the market, we reflect it. We can only give you our best estimate at the time. Had we analyzed all of that information at the time, you may have had a different projection, which would have given you the opportunity to react. I would suggest that rather than affix blame to any individual, either

Steve, Tom or myself, simply take a look at how we can prevent this in the future. What procedures could be installed to accurately project the possibilities? Kevin Buckley has been of immense help. Kevin Buckley understands it is an estimate and I think that Steve has said it very well. We certainly would not do that...there was nothing done deliberately to mislead or misdirect. After all, the three of us pay taxes in this City too.

Alderman Lopez asked saying all you have said, as the officers of the City can you enlighten us on the tax base this year and the future. Where do you see us? I don't see any cranes out there putting up high rises or anything. Can you give us your best estimate...I know you have talked about it, publicly as to where we are going to be next year?

Mr. Porter answered I am probably in the best position than the three of us and I would like to address an opportunity to say later. I think the City of Manchester, tax base wise, has a serious problem. The problems are simply opportunities to exercise expertise. It is not a function of the Board of Assessors to generate revenue in terms of new construction. New construction is predicated upon a number of factors totally uncontrollable by any individual and with all due respect, this Board as well. The dynamics of the City of Manchester, I have seen it in 22 years go from good times to bad times to good times to lousy times to great times. It is very volatile. To answer your question, Alderman, I see next year every bit as bad if not worse than this year budgetarily. Manchester is in my opinion the greatest City in the world. I was born and raised here but I think there are inherent problems. Number one show me the developable available land. We don't have a lot. The City of Manchester has a problem in that regard. The expenses increase but the opportunities for tax base increase...we all know that when you build a two-bedroom home or a four-bedroom home that is going to produce an impact on the schools. It is all related to the final line. The school, the education budget, the City side budget, the county budget, which you can't really control and whatever they bill us we have to pay. We don't have a lot of room for growth. That is not an Assessor problem. It is not a Mayor or Alderman problem. It is all of us as a City's problem and I think we have to address it. I really can't answer that, Alderman Lopez, except that I don't think next year is going to be any easier than it is this year.

Mayor Baines asked how is it going to impact the overlay next year, Steve, from your perspective.

Mr. Porter asked may I answer that.

Mayor Baines answered yes.

Mr. Porter stated I think the overlay next year depends upon the amount of cases that we resolve this year.

Mayor Baines asked could you explain to the people at home what the overlay is, Paul.

Mr. Porter answered the overlay account is the reserve for abatement and uncollectable taxes. Every community has to set aside a certain amount of money to protect itself against reasonable and approved abatements, but also surprises. As I said 22 years I have been here and we had a year one year when the first bill went out and on the second bill the GSA came in and informed us that guess what the Federal building, the lease and the agreement with the City ran out. There was a \$10 million assessed value that was reduced. It was a total surprise. However, because we had enough in the overlay we were able to cover it. I think Kevin Clougherty will agree that the overlay is one of many aspects in the credit rating of a bond. Is the City covered under overlay? I think the City of Manchester has been very frugal, but yet adequately funded for overlay. Whatever is not and we projected and Kevin Buckley has worked with us on this...whatever has not been reduced this year and we can only say may be reduced next year and I think Tom Clark can attest to the fact when a person has a lawsuit against the City you can't assume that it is no exposure. You can't assume the worst. You have to set aside the possibility for here is what may be reasonable. There is no empirical data to prove any case and I am sure there are cases that shouldn't get resolved at all that get resolved big. Cases where you think you have big exposure get resolved in a small way. My point is simply the overlay is an insurance policy for the bond rating to insure that the City of Manchester is adequately funded for not only the exposure but the surprises that may come. A few years ago we had the Chandler building that was under bankruptcy and Tom Arnold worked with us extensively on that. This was an abatement that went back to 1993. We resolved this in 1998 or 1999. There was absolutely no way of understanding that. 186 Granite Street is another example. That did not get settled and what you have to understand or for example the bankruptcy court doesn't abide by the deadline set by the state. They can go back to 1846 when this Board was assembled initially or when the City of Manchester was incorporated and say let's do the value back. There are certain things we can't control. The overlay projections, number one we have never gone into a deficit because there were times and I remember when Mayor Wieczorek was here I had to go to him and say with all due respect, your Honor, we need another \$5 million and if you think that was pleasant, believe me, it wasn't but we did that to protect the City from future exposure. The bond rating is obviously a very important function and we recognize that the tax base...but the overlay is an extremely important factor in the bond rating evaluation. The overlay for next year, which is the reserve for abatements, will have to consider what is left over from this year and then next year we will also have a certain amount of exposure. I will say to you ladies and gentlemen, a \$1 million overlay in a city the size of Manchester is not a lot. I would like to go on record that in my 22 years we have had one case settled at Superior Court. We learned that it doesn't pay if you can settle. We have had 14 cases settled at the Board of Tax and Land Appeals, five of which were not value issues they were simply issues of law. The overlay has never gone into a deficit. We have always been conservative, but yet we have to protect the City. I don't know what next year will be and I won't be here so I wish Steve and Tom the best of luck with that because it is an estimate. I implore this Board to understand that tax base projections are estimates at best. It is scientific...well I have to

say swag and I don't want to say the full words but it is, it is an educated guess. I guess I would like to say that I hope I answered your question, Alderman. I didn't mean to take so much time but I think it was important to at least express that.

Alderman Thibault stated, your Honor, I certainly would like to applaud Paul and I was here when he was first nominated to the Board of Assessors. I would like to applaud him for coming up with some of these things that I didn't know and I am sure many of these Aldermen didn't know. I want to applaud you for that. My question would be this. In all of this review, Paul, prior to us knowing where we are at today, I always felt that the Board of Assessors worked as a team. Were you part of that team, Paul?

Mr. Porter replied certainly.

Alderman Thibault asked so in other words you knew also that we had a problem here.

Mr. Porter answered I knew there were areas that should have been looked at and I guess the only thing is and it has been acknowledge by Steve that it wasn't looked at.

Alderman Thibault asked was this an Assessor Board review or your own, Paul.

Mr. Porter answered I don't believe that the projection of a tax base is necessarily a Board of Assessor's function and I think we have to look at where does the Board function lie statutorily and where does the departmental function lie with a department head. I am not going to blame Steve Tellier for this issue. That is not an issue. Did we talk as a Board? Yes. Were certain things maybe looked at or not? No. I don't wish to point fingers. There were things that were recommended to be looked at that with the myriad of responsibilities that a department head has, weren't looked at.

Alderman Thibault responded okay I guess that is where my question lies. My question lies in if you people as a team worked together shouldn't Tom Nichols or you or Steve pick this up and if no one picked it up why did that happen and I believe that would be the Mayor's question. How come it wasn't picked up?

Mr. Porter replied I will defer to Tom in one minute. I would simply like to say at this stage that the City has an issue to deal with. I would suggest we move on and not try to find out who did what when and why and go on. Unfortunately, there is \$55 million less in the tax base than was projected and I think at this point that is what this honorable Board has to deal with and as Assessors we acknowledge that the timing was tough.

Mayor Baines responded I agree with you to a point but we are also accountable to the citizens of the City and the citizens of the City have a right to know exactly what occurred here. I don't think it is beating a dead horse because there is a lot of concern out in the

community of why something like this could happen with an experienced Board of Assessors. I don't think it is beating a dead horse and playing the blame game. I think it is a legitimate question that Alderman Thibault is asking. How could this be discussed over and over again with three people and not have this resolved? It is not the issue that we don't keep asking because as you know during the budget process right up through the presentation of my budget this number was accurate. After that, as you know and Steve will know, we called repeatedly during the budget process right up until the final adoption with the Board of Mayor and Aldermen and asked is this number still good. I was consistently told it was good. When I met with the Board it was consistently good. At no time during this whole process did any one of you ever say, Mayor, a calculation has not been done. If we had learned that a calculation had not been done we would have immediately brought it to the attention of the Board and we would have immediately brought it to the attention of the public. That was not done and the people need to know that. I don't think there is anything wrong with that. Let Tom speak and then I will go back to Alderman Thibault.

Mr. Nichols stated any one of us could have added up those figures, not just Steve and had we done so we wouldn't be here today. Getting back to Alderman Lopez's question about next year's tax base, as soon as we do the roll over after the bills go out in November, as soon as that happens we are going to increase the elderly exemptions and the tax base before we even start next year's budget is going to be down by almost \$4 million. I am letting you know that right now. Last year we started with a deficit of \$3 million. Next year we will be starting with a deficit of almost \$4 million because they have to be bumped up to the next level.

Mayor Baines stated you are talking about the elderly and disabled exemption.

Mr. Nichols replied just the elderly. Because of the age, they have to go from \$45,000 to \$90,000 and from \$90,000 to \$125,000.

Alderman Thibault stated I have one more question and I think I asked this to one of you before and I am not sure which one but I cannot understand, as a resident never mind an Alderman of the City of Manchester seeing all of the new construction that is going on and the refurbishment of the old mill buildings how our assessment is down. I don't understand that and I am asking how this can happen with all of the refurbishing that has been done in some of those mills and some of the new construction that has gone into this City? How can our assessment go down? Let me just say one more thing here. How can some of the assessments of the City, which were much higher than they are have gone down? Can I get some sense as to how that happened?

Mr. Tellier replied I can answer that, Alderman. In non-residential properties the income approach to value is the one that is used. When I say the income approach, they are valuing their gross income for the property providing for expenses, vacancy and that type of thing.

The remaining income is converted to a value because when you are looking at a non-residential property if you wish to invest in that, you are looking at what the return on that property is going to be. In a great many of the properties in the City of Manchester and in any community, they do not disclose their income until after the values are out. If they get a favorable value, then they just move on. If they see that their value is not favorable, then it is incumbent on them to present all of their detailed income to satisfy and to substantiate an appeal to lower their value. There is no legal statute that requires non-residential properties, income producing properties, to submit their income and expense data. There was a bill in the legislature that failed on that. If you have a house that is worth \$200,000 and the revaluation says it is \$280,000, that is not new value. It is still valued at \$200,000.

Alderman Gatsas stated there is no question that I was probably the toughest on the Assessors last month and I certainly look at you and look you straight in the eye and applaud you for coming forward and saying that it was a human error and it was a mistake and let's move forward because there is nothing more that we can do to fix it other than looking forward. Mr. Porter, I commend you for the 22 years of service that you have given to this City. I think you have done an exemplary job. Steve, for stepping forward and saying it was a human error and I think that the three of you played as a team, that is fine. I don't think that there are any more questions that I can ask that are going to resolve the problem. Obviously a column of numbers weren't added up. There is nothing that you can do about it. We can't fix that. So, we go forward. I guess the one question I have though that I have the biggest problem with and Paul you quickly alluded to that and that is uncollectable taxes. I think it is unfair that we look at real estate in this City, when you talk about the Chandler building and you talk about 186 Granite Street, and if memory serves me correct the taxes on 186 Granite Street were somewhere in the vicinity of \$600,000. That property went to bankruptcy. As far as I know, I as a Board member never knew that those funds just disappear. Now I understand that through the bankruptcy proceedings that basically the same person owns the building. Now if we need to find a way to get legislation at the State level that avoids that situation so that the City stays whole when they are sitting there and planning on collection of dollars, I don't think that we should be forgiving taxes when the City has the assumption that they are going to spend that money. Maybe you can help me with that.

Mr. Porter replied I agree with you. It is not State. Tom Clark correct me if I am wrong but this was a Federal bankruptcy court was it not.

Solicitor Clark responded it was a Federal court and it is the Federal regulations. In this particular case, the real estate taxes have been paid.

Mr. Porter stated they were reduced.

Solicitor Clark responded the interest was reduced. The taxes were paid.

Mr. Porter replied right but when the Federal Bankruptcy Court gets involved, i.e. the Chandler building...

Alderman Gatsas interjected Mr. Clark what was the total tax bill that was owed the City.

Solicitor Clark answered I think it was somewhere between \$580,000 and \$600,000 and the taxes have been paid. The bankruptcy court, through its Federal legislation, was allowed to reduce the interest.

Alderman Gatsas asked what about the Chandler building on Elm Street.

Mr. Porter answered the Federal court, as I mentioned, has a right through bankruptcy to usurp if you will the State's rights and go back many more years than is allowed under the State statute. Under the State statute...and we denied them for three or four years. We denied them because there was no legal basis by which to reduce either the taxes or the interest. The bankruptcy court establishes guidelines. We were looking at it from the standpoint that from a local level there was no statutory ground to relieve them of taxes. They had not ever filed a tax appeal. The bankruptcy court, however, says go back and ascertain the value. They can go back as far as they want. I don't think that that is fair but that is a ruling of a Federal court. The State law, I don't believe, can change that Alderman. That particular settlement, as settlements go, and I commend the Solicitor's Office for participating in this and fighting it, actually worked out a little better than it may have had we not had the intercession of the Solicitor's and the Assessor's firm ground standing of holding the line. They are very liberal on the Federal bankruptcy issues.

Alderman Gatsas asked is there any way that you can give us an idea, not an exact one, but of uncollectable taxes on a yearly basis that you think that was as a City don't have an opportunity to recoup.

Mr. Porter answered uncollectable taxes is another issue and I would respectfully defer to the Finance Department to define that. We deal with abatements. Abatements are not uncollectable taxes. Abatements are taxes that have been collected that should be refunded.

Alderman Gatsas replied then I misunderstood you because you used the word uncollectable taxes.

Mr. Porter responded I did. That is the actual legal term for an overlay. I don't really know what they would define as uncollectable taxes. That, I think, the Finance Department would probably be able to tell you. It has nothing to do with abatements.

Alderman DeVries stated I am looking tonight and I realize that this is our last meeting with you tonight, Paul, and that you will be retiring and we will not have an opportunity to ask

your expertise on several of the questions we will have in the next few month but you spoke of several recommendations that you would have to prevent this scenario from unfolding in future years. I heard you offer up one suggestion, which was to clarify the functions of the Board versus the department and I am sure that you have already shared...Steve, yourself and Tom, what you mean by this with the Mayor and you have gone down that road with the Mayor and his staff. Are there any other suggestions though that we need to hear tonight before we lose your expertise?

Mr. Porter replied I don't have any specific recommendations. I think that some of what the Mayor wishes to do to analyze and to look at reorganization and I am a firm believer that looking at something is never bad. If the present status is the best, keep it. If not, change it. I would assume that my colleagues do go along with that. There has to be a rationale behind it. There has to be a look to find out where does the City of Manchester wish to go in the future. I do know that the Assessor's Office is woefully understaffed. What that translates into is money. If the Mayor wishes to make a change and I don't take exception to that. I am sure the Board will in the future be able to analyze that. If you want to make a change then maybe you better be committed to funding it properly. We are not properly funded right now. I think Steve has brought forward some plans. Part of the problem is always when you deal with existing people you tend not to believe them but when you hire somebody from outside they come in and they give you all kinds of recommendations and gee you know what, an expert is a person who wears a three piece suit, drives a BMW and lives 100 miles away. I do believe, and I am firmly committed...I have talked to Tom and Steve and I have talked to a few people in my opinion the Board of Assessors is woefully understaffed, undermanned and underfunded. I think to make a change if you want to commit to that change it requires looking at the proper funding. It is not numbers of people. It is the quality and the type of people that are involved.

Mayor Baines stated again, Alderman, we will have a specific recommendation for the Board's consideration at the next meeting of the Board. I think there are some ways that make sense. We have talked about the Nashua model and looking at reducing administrative costs and reallocating resources and I believe we will be able to accomplish something doable for this Board and prevent a recurrence of what happened here. I believe there is a structure and there are models of structure. The structure we have in Manchester is somewhat unique and I think that some of the things you have heard about in terms of Board versus Administrator, we are going to be addressing that and then it will be up to the Board to either adopt it or amend it or reject it. I will have a very specific recommendation relating to reorganization of that office.

Alderman DeVries stated I have a brief follow-up. I do want to wish Paul well on his retirement taking place in the next couple of days.

Alderman Thibault asked, Paul, how long have you been on this Board.

Mr. Porter answered 22 years.

Alderman Thibault asked how many assessors were on when you came on.

Mr. Porter answered Paul Martineau, Bill Lynch and myself. Three.

Alderman Thibault stated and we are still at three 22 years later.

Alderman O'Neil stated my concern is dates here and I am still not clear of correct dates.
What was the date that you knew there was a problem?

Mr. Tellier replied we knew we were exposed for a great deal of money by March 1 when we had over 1,600 appeals. In the early part of that, one of the dilemmas is they just file across the board and a lot of the appeals don't have a great deal of substantiating documentation. In late March, we started to get some additional information. That was the review work that CLT performed for us. That was the information that was not implemented in March, Alderman to be very frank and honest, was when quite frankly we should have been more conservative and come to this Board with more conservative numbers at that point, however, much later than that is when we received a great deal of substantiating documentation that would lend additional credibility towards where we are today.

Alderman O'Neil stated, Steve, we all can make mistakes and if you fail to...I heard the term used add up a column, you know those things happen but you knew about this...I don't remember the date that the Mayor's budget got handed over to the Alderman...

Mayor Baines interjected March 30 if I recall.

Alderman O'Neil stated so the Aldermen had a budget for almost three months to work on and you failed to share that information with us. That is what I think the big issue is here. Not that somebody failed to add something but that you failed to notify the Board that there was a problem. Now we are going to be forced to look at a reduction in services to the citizens of this City. I think it is a pretty serious failure of communication.

Alderman Wihby stated I guess I don't...if it happened before the budget was done or after the budget was done it doesn't matter. We still have to cut \$2 million. It didn't matter. We have to cut it now instead of cutting it when we did the budget. The end result is going to be the same. Steve, is any of this because of additional abatements that we weren't counting on? You said your normal process is that some of these abatements are just going to be thrown out anyway because everybody applies but it seems like maybe a bigger percentage of them were meaningful. Could that be because the company didn't do their job, which is what I was arguing right from the start that the numbers were wrong?

Mr. Tellier replied I hate to point the blame that way because they are going to predicate their values on the information that they have at hand. The fact that it is a calculated effort by a lot of properties not to submit detailed income and expense information until after they realize that they are unhappy with a number after the fact I really don't want to point the blame. It is not uncommon for ½% or 1% shift backwards after a revaluation. The State is moving forward to reduce that sort of risk and exposure by going into a four-year cycle, which will reduce that disparity between timeframes. That is part of the reason as well.

Alderman Wihby stated talking about the State, this was such a big controversy that they had their own people here to look over these numbers and they said everything was fine, too. How does that happen?

Mr. Tellier replied I think the State realized that they need additional staff as well. They added another \$3.4 million to the property appraisal division of the Department of Revenue Administration to answer those needs as well.

Alderman Wihby stated if I recall that was a tie vote with the Mayor breaking the tie in order to move forward with the company and the structure that we were going to have but it was based on, I think, the Commissioner sitting here and telling us that they reviewed everything and everything was fine. Now you are telling us that they didn't have the staff to do it right the first time?

Mr. Tellier replied no I am not saying that. What you are asking is whether the Department of Revenue did an appropriate job. I think that they looked at the analysis and the statistics that go with ratio analysis using sales and income and with the data that they had available, they believe that the right way was to go forward. We concurred with that.

Alderman Wihby asked why wouldn't they have caught something like this.

Mr. Tellier answered the nature of appeals is it is a year in arrears. As I indicated earlier, a great deal of information does not come until after the fact if they don't like their numbers. Then they will give you their detailed income and expense information that would predicate a readjustment or a more fine-tuning of that value.

Alderman Wihby asked so is most of it commercial.

Mr. Tellier answered yes. The majority of the dollar value is commercial.

Alderman Shea stated I would like Paul to answer this. We have spent a great deal of money investing in a civic center. When will we realize any kind of economic development as a result of investing \$130 million of taxpayer money?

Mr. Porter replied if you can show me the buildings that will be constructed because of it, I can answer that. At this point, I...

Alderman Shea interjected what has been the impact economically.

Mr. Porter replied there is no way I can answer that.

Alderman Shea asked well what has been the economic impact of a new civic center besides providing fun and entertainment for the people that go there. Has there been any?

Mr. Porter responded I can't answer that. All I can address are improvements that have been made downtown. Whether they are civic center related or not is...I can't answer for. I don't really know. That is totally out of my realm.

Mayor Baines stated in fairness here, they are the Assessors. If you wanted at some time to bring the Economic Development Director in to talk about it or the Destination Manchester Coordinator...

Alderman Shea interjected well they do have the charge of doing the assessing, your Honor, and in the assessing of property as you just related, commercial property has been downgraded is that correct.

Mr. Porter responded no.

Alderman Shea stated well in other words the abatements are coming from commercial properties is that correct.

Mr. Porter replied the magnitude of the abatements, obviously on a major commercial property would have more impact than on a single-family residence just by the sheer value. 5% of a major commercial could account for 50 homes. When we take a permit and we do a revaluation of a property, I don't analyze whether it is due to the civic center or just lucky stars. I don't know. That is not our function. We simply reflect what is there. The reason it is there is beyond our scope. I can't answer that.

Alderman Shea asked in follow-up to that, Paul, the intent of the burden of taxes was supposedly going to shift from the residential people, the people paying residential taxes to commercial and industrial properties in order for an equalization to take place. In other words, there was at one time a 60%/40% and now it is 70%/30% or so forth and there was some sort of projection made that in time there would be an equalization so that it would be either 50%/50% or 60%/40% and so forth. My concern is we are investing a tremendous amount of money in this particular building or project as it were and what the taxpayers in

my ward want to know is when are the results going to be forthcoming so that there will be some sort of tax revenues generated because of this building.

Mr. Tellier replied I think the simple answer is one of the things that may be evident to everyone here is that a further degradation of the downtown has been somewhat stalled. There is more optimism. There is investigation of putting monies into second, third and fourth floors of buildings that were previously left unoccupied and you could actually see the pigeons flying in and out. There are new businesses. Granted they are restaurants and bars predominantly but I think the answer in brief, Alderman, is that you have seen a stalling of any further decline. Now we brought up the fact that we don't see any cranes or anything like that and that is true but it took 20 years for the inner city to really fall into some pretty dire straits and it took a great deal of time to get owner occupied and get the fences and lawns done and flowers planted and an ownership interest in the inner city again. It wasn't that long ago – it was 1994 if I saw a three-family for \$65,000 in a sale I was thrilled to death. Now they are going for twice that. I think the answer is that we have stalled further decline and there is more optimism.

Alderman Shea stated my final point is there is consideration to invest a great deal of, I guess, either revenue bonds or what have you in a new baseball stadium. The point is that one has to consider from a tax base point of view whether investing that much money in a stadium of revenue bonds or whatever means we can try to do that would have the same or a similar impact as a civic center or would it change the tax base and so forth. I think this is something that...you know is this going to be the same kind of situation.

Mr. Tellier replied I think it is premature to answer any of that.

Alderman Lopez stated I just have a comment. I believe as an Alderman that...I don't share the philosophy that it makes no difference whether it happened now or back then. If we would have known back then most likely...I feel that my vote was taken away from me because I based my decision on the information that was received. Now on the backs of the City departments minus the School Department, we are going to have to find that \$2 million and I don't know what the ramifications are. The Mayor and everybody else is still working on that. That is just a comment that I want to share. It does make a difference when this happened because decisions were based upon information that we did receive and the best decisions were made at that time. Had this information come forward before, there might have been some other decisions. I might have even agreed with Alderman Wihby or Alderman Gatsas on certain issues but we didn't have that information. I feel now that my vote was taken away from me to make a decision.

Mr. Porter replied I said that at the beginning of what I said. I believe the Aldermen are upset and if I were an Alderman I would feel the same way. Your prerogatives were usurped by the timeliness of the decision.

Mayor Baines stated he was just responding to another Alderman's comment at a different time. You did say that and the record will show it.

Alderman Smith stated I am not on a witch-hunt or anything. As you all know I chaired the meeting when my colleague, William Shea, wasn't there. This was on 6/24. Your report to us Steve was \$20 to \$25 million. Under the urging of Alderman Wihby on July 16 you gave us the same information. This is not a witch hunt but if I am going to...you know I am really upset because these department heads now I don't know how they are going to be able to cut more from their departments. If they have to cut, you know where the cut is going to come it is going to come in manpower and if it comes in manpower then it is services and if it is services then we are in big trouble and we can't afford to lose police and firemen at this time. I just want to say that I was a little bit mislead and I feel a little bit upset about it. I wasn't going to say anything because I don't want this to be a witch-hunt but I was a little bit upset because you came to us and the Committee and told us that it was still \$20 to \$25 million.

Mayor Baines asked what was that date, Alderman.

Alderman Smith replied it was June 24 and then at the urging of Alderman Wihby on July 16 we followed it up and he said he would get back to us.

Alderman Thibault stated my question is just this to the Assessors. What I want to know is do the people of the City of Manchester understand that any building in this City that is not rented on the second floor, third floor, fourth floor or whatever, that we are obligated by State law to abate those properties? I can see now where many of those properties are finally being rented or being occupied. Can I ask you, the Assessors, is this going to make a difference in next year's tax base to some extent?

Mr. Tellier replied one of the major issues that we agonized over and worked diligently...and this addresses Alderman Smith's issue, was the additional \$25 million was to recognize the exposure over the long-term in this hit so that it wouldn't be parlayed into next year because as we address the value reductions this year...as we address these this year it reduces the amount that we will need next year. Anything that isn't addressed in this tax year doubles up for the following year. That is why we are going to make every effort to address all of the appeals that we have in this timeline.

Mayor Baines stated before we close on this discussion I want to thank Mr. Porter for his 22 years of service to the community. I wish you well. I think what can be said about Paul is we are going to miss his wisdom, his candor and there was never any gray area when Paul spoke to the Board of Mayor and Aldermen since I have been Mayor or before and that is going to be missed. I will leave it at that.

Report of the Committee on Bills on Second Reading recommending that Ordinance Amendments:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned R-SM (Residential Suburban Multifamily District) to B-2 (General Business District) on the west side of Brown Avenue at the intersection of Hazelton Avenue.”

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned R-1B (Residential One Family District) to R-SM (Residential Suburban Multifamily District) on the east side of Brown Avenue at the intersection of Hazelton Avenue, extending to the Londonderry Town line.”

ought to pass.

Mayor Baines stated just so you are all aware, Carol Murray who was scheduled to be here this evening, had a death in her family and that is why she had to cancel. We will be rescheduling with her.

On motion of Alderman DeVries, duly seconded by Alderman O'Neil, it was voted to remove this item from the table.

Alderman DeVries stated I had a public meeting with Bob Barry approximately two weeks ago at which time I had the opportunity to ask some particular questions and these were issues that were raised at our last meeting prompting this motion to be tabled. Specifically addressed with Bob Barry would have been the value that is going to be placed on the property at the time of taking by the State. It was quite questionable by many members of the public and the Board as to whether the attempt to rezone the land was being done to exact a greater value of the property. Bob Barry advised us publicly at the meeting, as well as privately after the meeting when I took the line of questioning even further, that the properties are going to be paid whether they are rezoned or not at a best and future use of the property. They are going to be paid for the value that will be placed on it after the access road is actually constructed. It doesn't matter if it is currently zoned Residential, Multi-Family or Commercial. They are going to be paid at a value for what the best use of that property is going to be and Bob Barry did confer, Bob Barry being the Director of the Department of Transportation who works directly underneath Carol Murray. He did confer that in his opinion it was going to be a commercial use that he would see that they would be paying on that property. I just thought it was very inappropriate that there was a public opinion that I think was enhanced by the tabling of this motion last month at our meeting that this was entirely an effort just to get additional financial gains by the King Trust and I wanted to clarify that. I am also asking if we could get possibly a representative from the King Family to ask some specific questions to to see if there have been any changes in the project in the last month. Is it possible to have a representative come forth? Is there anybody here this evening who might be able to address some specific questions?

Atty. Nicholas Lazos stated I am an attorney here in Manchester and I represent the King Family Trust, specifically I am representing them on this particular matter. I will try to answer whatever questions the Board may have for me.

Alderman DeVries stated there are two separate parcels that have been identified for rezoning and I would like to separate the two parcels because I think it gets a little muddled and confusing when we speak of them as one. The first parcel being on the East Side of Brown Avenue where there is currently an apartment complex located and some additional lands adjacent to the apartment complex. You were looking to join to do a voluntary merger of the constructed apartments and the adjacent land. Is that correct?

Attorney Lazos replied specifically what we are doing is there are existing apartments in that location and the King Family owns a parcel of land that is immediately abutting those apartments. Those apartments are owned by a third party gentleman named Ron Dupont through an entity and what we are proposing to do is to rezone that parcel, the existing apartments plus the remaining King parcel to R-SM, which is the multi-family zone that we believe is appropriate for that which reflects the existing use. That is that specific request, yes.

Alderman DeVries asked the purpose to rezone the land is to...is there a project to enhance the current structures that are there or could you expand on that.

Attorney Lazos answered I understand from Mr. Dupont that his goal is to currently upgrade the property. He would like to do some new landscaping. He would like to create some open space. He would like to improve the parking. He would like to improve the access on his property and we are having discussions with him about his acquiring the remaining land to be able to do that expansion. In addition, we believe that there will be land remaining that will allow the construction of one or perhaps two additional apartment buildings. That is a little uncertain now since the final design of the...when I say one or two buildings the final design of the access road has not been completed and when that is done then we will know how much land we have left. Our goal is to hopefully provide Mr. Dupont with the zoning to be able to upgrade his property, which he is anxious to do.

Alderman DeVries stated that being said you did say that you are not sure about how much land will be left. Can you elaborate and this probably will take us more to the other parcel of property which is located on the Merrimack River but how has this project evolved and the bridge is it staying where it originally was or is it moving? How has it evolved in the last month since your last presentation?

Attorney Lazos replied let me give you a quick...the original location of the bridge was actually further north than it is currently proposed. I believe there are some materials that you have been given. The original location of the bridge was approximately 600' or 700'

north of where it currently is designed. The location of the bridge was driven south as a result of the discovery of an eagle's nest on the West Side of the river in Bedford. As a result of that, the state redesigned the bridge, moved it South and basically located it for example on the other piece that we are going to discuss in a minute on the river it did move it about 600' or 700' South on the parcel. As far as the East Side, it did create a little bit of a curve. The bridge is such a large project. The right-of-way that is shown there is approximately 500' wide. The final design by the State will have a significant impact one way or the other depending on which way they go because literally 1/8" on those plans that I am showing you will be like 200' or 300'. Also you should know that the design is continuing to evolve. I don't know if anyone on the Board saw this but in the Bedford newspaper last week there was an article that indicated that the State was negotiating a settlement with the Coastal Property people where they were going to not take his property on the West Side of the river. We understand that is going to cause an additional change in the design to avoid his property and that may affect the location of the bridge as well. What is going on here is that the design of the bridge and its final location is evolving and is not final even to this date.

Alderman DeVries stated at the time of the environmental public hearing that was held back in April if you can take us through the process how much land did you think was going to be returned for development on the river and where are you at for land that you might have available today.

Attorney Lazos replied at the time of the public hearing April, the State on their public notice showed only approximately a 75' to 100' strip along the river was going to be taken north of the actual bridge construction area. At that time I was at that meeting and I met with Mr. Barry and at that time he indicated that it would be possible to petition the State to not take the entire parcel north of the actual location of the bridge. The size of the lot at that time I believe was...the remaining lot was approximately seven to eight acres that could potentially be developable. That would be basically the northern 2/3 of the lot excluding the strip along the river that is basically wooded and would be considered to be eagle habitat. On the materials that we gave you this evening you will see that there is a yellow and red crosshatched section along the river. That is the area that the State specifically indicated they were interested in taking for eagle habitat mitigation or protection. We, in fact, petitioned the State to request that they change their original determination of how much of the land would be taken and, in fact, the State did come back and advise us through the Commissioners Office that the State would not be taking the entire parcel and that they in fact eliminated the limited access taking, which they would have done. They also advised us that we would be given access to the intersection that was going to be created by the State from the connector road from the bridge. Based on that, my client filed the rezoning petition. Subsequent to that date, however, we have been advised by Mr. Barry and the Commissioner that apparently based on pressure from the Federal Fish and Wildlife people and a number of other environmental groups that the State has agreed that they would

basically take for eagle habitat the area of our property that lies within the so-called 650'...I am sure you have all heard about the 650'. It is basically a radius line from the eagle nest on the West Side of the river. What that does is that eliminates the top Northwest corner of our parcel. I won't discuss whether we agree or not but the truth is that Mr. Barry has advised us that that Northwest portion within the 650' radius is going to be taken by the State. They, however, have absolutely no objection to us planning and developing the 2.4 or more acres of land that is part of our parcel along Brown Avenue. They have, in fact, agreed that we can develop that and they have asked us to work with them to develop a traffic plan so they can design the State improvements so they are consistent with ours. That is where we are at this time.

Alderman Gatsas stated Nick I think you and I have had conversations in the last week.

Attorney Lazos replied yes.

Alderman Gatsas stated my understanding was that the rezoning was just going to be affected for the two and a half acres. Has that changed since the conversation I had with you?

Attorney Lazos replied I think the answer to that is if the Aldermen are telling us that the only portion of the land that they are willing to rezone is that 2.3 or 2.4...it is 2.39 acres then the answer is that we would like that to happen because...

Alderman Gatsas interjected let me ask the question in a yes or no answer for you. You presented to me that you would be withdrawing the entire package and only ask for rezoning for two acres. Is that still in place yes or no?

Attorney Lazos replied the answer is if that is what the Board wants the answer is yes. We will withdraw the quest for rezoning of what I call Lot 3, which is the larger parcel and request that Lot 2, which is the 2.3 acre parcel be rezoned.

Alderman Gatsas stated I don't believe it is up to this Board to tell you what to bring forward and what to take out. I think it is up to you to tell this Board what you are looking for for rezoning.

Attorney Lazos replied frankly what we would like from this Board and from the City of Manchester probably was some support some time ago to get the State to not take as much of our land as they want to take. We frankly want to develop our land and when the road was moved 600' south suddenly we had seven to eight acres that was available that could be zoned commercially and could be developed as it originally was under the old ordinance as an extended stay hotel or two. Unfortunately, we haven't had that support so the State made whatever deal they made with the environmental groups so my answer to you is...

Alderman Gatsas interjected I think I understand your answer so let me go to the next question. Going back to parcel one that Alderman DeVries brought up about changing the R-1B to the R-SM is it not true that the only way you can ask for a rezoning change to an R-SM is a minimum of a 10 acre parcel?

Attorney Lazos replied that is correct.

Alderman Gatsas asked so without the convergence of these two lots you would not have that minimum 10-acre parcel.

Attorney Lazos answered that is correct. That is why we have the...

Alderman Gatsas interjected so the density is we are increasing the density on both lots.

Attorney Lazos responded well there is already an existing apartment complex on the other lot. I believe that the R-SM district...I haven't done the calculations on Mr. Dupont's land but it is possible that he probably still has more units on his land than an R-SM would allow. I just haven't done that calculation.

Alderman Gatsas stated, Mr. MacKenzie, I think that I asked you that question a few weeks ago. Can you help Mr. Lazos?

Mr. MacKenzie replied I would probably echo Mr. Lazos. I didn't do the calculations but I do suspect that Mr. Dupont could get more units on that land if it was rezoned multi-family.

Alderman Gatsas stated so what you are saying is that the density that he currently has is the maximum for the lot and if we rezoned it I think you said...I believe in the testimony you gave me was 26 additional units could be built on that piece by itself, which cannot be done today.

Attorney Lazos asked on which piece are we talking about.

Alderman Gatsas answered on Mr. Dupont's piece.

Attorney Lazos responded that I don't know. I honestly don't know.

Alderman Gatsas stated I am talking to Mr. MacKenzie. I believe that is the number that he gave when he was sitting over there and this came up before the Committee on Bills on Second Reading.

Mr. MacKenzie responded I don't remember indicating any dwelling unit numbers because I hadn't done the calculations. I do have to say there is acreage that is vacant that is owned by the King Family, a portion of which may be taken by the State so it would be hard to calculate actually how many units could fit there because we don't know the exact acreage that would be left.

Alderman Gatsas stated, your Honor, I believe it is still proper that we leave this on the table to get the Department of Transportation down here to address the questions we have. I understand that there was a death in Carol Murray's family but I certainly think that we should, as a Board, if that is what we are looking to do then that is what we should do.

Mayor Baines replied we actually missed two meetings with them because I was going to meet with them this afternoon to talk about some of the issues that have been alluded to in other conversations plus they were going to be at this meeting tonight.

Alderman O'Neil stated, Nick, in speaking to Alderman DeVries and trying to get some background on this the old ordinance, extended stay hotels before we had a revision a year or two ago in the zoning ordinance of the City, the extended stay hotels were permitted in the multi-family zone under the old ordinance. Is that correct?

Attorney Lazos replied that is correct.

Alderman O'Neil asked was that the only place they were allowed.

Attorney Lazos answered I believe that is the only place where extended stay hotels were allowed.

Alderman O'Neil asked and under the new ordinance that we adopted they are only allowed in a B-2 zone is that correct.

Attorney Lazos answered that is correct.

Alderman O'Neil stated you handed out something tonight that said that you could probably develop 126 apartment units with the current zoning. Is there and this may be a question for Bob but you do a lot of land use legal work is there a formula that is used based on number of units and number of homes how many kids that would go into a school district?

Attorney Lazos replied absolutely. There are all kinds of formulas that are utilized basically using Housing and Urban Development formulas and there would be...theoretically apartments would generate some school children. Not a huge amount but there would be some school children generated by it.

Alderman O'Neil asked, Bob, do you know what that number is for apartments.

Mr. MacKenzie answered I do know that based upon the impact fee information it is relatively small for apartments. Probably on the order of ¼ student per dwelling unit for apartments.

Alderman O'Neil asked so we are looking here at 25 or 30 students then if that is correct.

Attorney Lazos answered that is fair I believe.

Alderman O'Neil stated in a school that is already overcrowded even though that is a low number. I want to talk a little bit...you talk about this Lot 2 and Lot 3. I don't want to speak for you and I want to make sure that I understood what you said but you said you would be willing to look at dividing it and allowing Lot 3 for the State's interest and allowing Lot 2 for your client's interest. Did I understand that correctly?

Attorney Lazos replied yes that is correct. Lot 2 already exists as a separate lot. It happened to be two lots that are there of record. The larger lot is Lot 3 and that is the big pork chop shaped lot that runs along the river. Lot 2 is a roughly 2.39 acre piece that is at the Northeast corner of the property.

Alderman O'Neil asked am I correct to say that it is primarily Lot 2 that would have been used for the development that you spoke about.

Attorney Lazos answered no. A part of Lot 3 would have been used as part of the development as well.

Alderman O'Neil asked can Lot 2 be developed for the plan. You have a plan in here that is in the middle where you show a hotel, out parcel 1 and out parcel 2. That goes into part of Lot 3 correct?

Attorney Lazos answered exactly. What would have to happen is if the only parcel that we could develop is Lot 2, which is 2.39 acres, we would have to do some redesigning. We could, in fact, get a substantial amount...a fair amount of development on that piece. We wouldn't be able to get the development we were originally expecting from the parcel, which was seven acres but I believe we could get a relatively substantial amount of development on the piece.

Alderman O'Neil stated it would not allow you, it appears looking at the map I am looking at, to get the buffers that you had talked about with the neighbors. You had talked about at least a 50' buffer to the North I guess it would be.

Attorney Lazos replied that is correct. Unfortunately 50' would have a substantial impact on that lot, the 2.39-acre lot.

Alderman O'Neil asked so if there was some kind of balance here for the access road for what I understand to be special interest groups they have been referred to in some of the stuff I have read and your development that could be done to meet all three goals but you probably would need more space to the South of Lot 2 in order to create the buffers needed to protect the residents on the North.

Attorney Lazos answered that is correct. If you look at the plan and you look at that 650' radius that the State is working from, the radius as I indicated is on the Northwest part of our lot because the eagle nest is actually to the Northwest. There is a possibility that when the State finishes its design that there could be some additional land to the South of Lot 2 available basically on Brown Avenue for development. We don't know what that is yet. The State has basically said to us we haven't done the design yet. We don't know what the final results is going to be. However, there is a kayak park that is proposed and a wildlife corridor that is proposed and there is obviously the eagle habitat. Those are the other issues that are there, however, the Commissioner has indicated that her department is willing to work with us to try to allow us to keep as much of the property as we can.

Alderman O'Neil stated my understanding is that the DOT has told your client that not all of the property is needed for the access road. Is that correct?

Attorney Lazos replied that is correct.

Alderman O'Neil stated and that they would allow access from Brown Avenue to the property for development.

Attorney Lazos replied that is correct as well.

Alderman O'Neil stated Alderman DeVries made a statement earlier that the taking of land would be at its highest and best use.

Attorney Lazos replied that is correct. I have had that discussion with Bob Barry myself.

Alderman O'Neil asked no matter what the zoning is.

Attorney Lazos answered he has indicated that they acknowledge...the State acknowledges that the extended stay was permitted under the old ordinance and that we were in the process of changing that under the new ordinance last year as a matter of fact so it is basically an understanding on their part that the highest and best use would be the value given.

Alderman O'Neil stated I won't ask this as a question so I don't put you on the spot but I will make a point. In my opinion the taking of the entire property is to serve one or several special interest groups and I think that there can be...there was a book several years ago Earth and the Balance and there can be balance here between the environment, the access road and your client so I hope we move forward in that direction. Thank you, your Honor.

Alderman Wihby stated, Nick, we had a discussion this afternoon and during the discussion you told me that you were going to come in and go with the smaller parcel and withdraw the proposal. What happened since 3 PM?

Attorney Lazos replied nothing has happened. As I indicated our position is that the Aldermen are indicating that they are uncomfortable, for whatever reason, and not accepting our petition as it. My client is willing to withdraw the portion of the petition relating to the larger parcel and leave it on the smaller.

Alderman Wihby asked so if it comes to a tabling motion to hear from the Commissioner next week you would rather move with the smaller parcel today or wait until the next meeting to hear from the Commissioner and then go with whatever happens.

Attorney Lazos answered I can't speak for my client at this point. If you give me a few seconds I will ask them. We haven't talked about that issue.

Mayor Baines stated you can have a sidebar. Actually, we will take a two-minute recess.

Mayor Baines called the meeting back to order.

Alderman Gatsas moved to table this item so that the Board hear from the Department of Transportation at the next available opportunity. Alderman Garrity duly seconded the motion. Mayor Baines called for a vote on the motion. Alderman Gatsas requested a roll call vote. Aldermen Gatsas, Guinta, Osborne, Pinard, Shea, Garrity, Forest, Wihby voted yea. Aldermen Sysyn, O'Neil, Lopez, DeVries, Smith, Thibault voted nay. The motion carried.

Communication from Lloyd Basinow requesting a public hearing be held relative to fluoridation of Manchester's water supply and placing the appropriate question to the voters by referendum.

On motion of Alderman Thibault, duly seconded by Alderman Pinard, it was voted to remove this item from the table.

Deputy Clerk Johnson stated the Clerk would advise that at the request of the Board we did research this item. It has been more than three years, however, we have not received

applications from 10% or more of the registered voters so we could not place the item on the ballot. In the event that we did, it would have to go on a municipal ballot, not on a State election ballot under the law. In addition, we had received an additional communication from Mr. Basinow requesting a Charter amendment and the City Solicitor's Office has advised us and we agreed that there appears to be a conflict with State law.

Alderman Forest moved to receive and file this item. Alderman O'Neil duly seconded the motion. Mayor Baines called for a vote. The motion carried with Alderman Thibault being duly recorded in opposition.

NEW BUSINESS

Alderman Smith stated as has been the past policy with this Board regarding having a Ward Alderman to nominate a School Board replace when needed, I move that the Aldermen At-Large nominate the replacement for the School Board At-Large.

Alderman DeVries duly seconded the motion. Mayor Baines called for a vote. There being none opposed, the motion carried.

Alderman Lopez stated at this time I would like to make a nomination of an individual who has been a NH State Representative Chair, has been on the Citizens' Task Force for Public School Facilities, former State Prosecutor, NH Attorney General's Office Senior Assistant Attorney General, Chief of the Homicide Unit, former Federal Prosecutor for the U.S. Department of Justice and a member of the Campaign Finance Task Force. He graduated from Manchester Central High School. He attended St. Michael's College with a BA from the American University and an MA from Boston College Law School. He lives in the City of Manchester at 1788 River Road. I would like to nominate John Kacavas for School Board At-Large.

Alderman O'Neil and Alderman Wihby duly seconded the motion to appoint John Kacavas to fill the unexpired term of John McDonough as an At-Large representative on the Board of School Committee. Mayor Baines called for a vote. There being none opposed, the motion carried.

Mayor Baines introduced the new School Board Member At-Large, Atty. John Kacavas.

Alderman Gatsas stated tonight after due and careful consideration, I am happy to announce my nomination for the School Board Member of Ward 2. I must admit that I was not happy to have to make this difficult decision. Deciding for the voters who will represent them to me is undemocratic. Nevertheless, I took my responsibility very seriously and reviewed the possibilities as judiciously as possible. In making my decision, I established some very important criteria. First and foremost I thought it was important for whoever assumed this

position to have the experience in the fiscal aspects of school funding, as well as in education policy. Second, I wanted someone who was committed to improving the delivery of education. Third, I wanted someone who would be responsive to the needs of the students and taxpayers of Ward 2 and the City. Finally, I thought it was important for Ward 2 to have someone representing them that could hit the ground running. It is under these circumstances that I am nominating Judith O'Brien-Thayer to fill the Ward 2 School Board vacancy. Judy has a long and distinguished record of public service in education. In 1986, Governor John Sununu appointed Judy to the State Board of Education. In 1988 she was appointed Vice-Chairman of the Board. Judy was later appointed as Chairman of the State Board of Education by then Governor Judd Gregg and served in this capacity for four years until 1993. During her service to the State and to its students, Judy authored and implemented a 12-point plan for education accountability and excellence. She also developed new teacher training standards and a State education assessment system. Her other accomplishments on the State Board are too numerous to list. I ask for my colleagues to support this so there is a seamless transition of representation on the School Board for the good people of Ward 2. Before I finish, I would like to make a comment about this process. I believe that recent debate over the last few weeks regarding the School Board At-Large and the School Board Member from Ward 2 demonstrates that this appointment procedure in the City Charter is clearly not the best process, which is why I hope that if we are successful in revisiting the City Charter this will be one of the areas that will absolutely be looked at and changed. I believe that for us as Aldermen to be appointing elected School Board members is not right. In this process you can only make people unhappy because they call to want to represent the people of that ward and you are unable to put them all there. With that I thank you and I appreciate your support. Judith is not here this evening.

Mayor Baines stated we need to do one thing first. I need a motion to accept with regret the resignation of Francoise Elise.

On motion of Alderman Thibault, duly seconded by Alderman Garrity, it was voted to accept the resignation of Francoise Elise as the Ward 2 Board of School Committee Member with regret.

Alderman Gatsas moved to appoint Judith Thayer to fill the unexpired term of Francoise Elise as the Ward 2 representative on the Board of School Committee. Alderman O'Neil duly seconded the motion. Mayor Baines called for a vote. There being none opposed, the motion carried.

Mayor Baines stated I have one communication. On Thursday at noontime at City Hall Plaza there will be a special event to unveil the new bandstand. As you may know the old City bandstand was retired. I think it was purchased when Sylvio Dupuis was Mayor and I think the office of Risk Management finally shut it down. We were able to secure funding during the budget process to buy this new bandstand. I haven't seen it myself. It is

handicapped accessible and meets all of the new standards that are necessary. We are going to have a ceremony. We have invited the former Mayors to be present. We are also having a special guest that day, the Mayor of Nashville, TN, Mayor Bill Purcell, a very close and personal friend of mine will be up to do his part of inaugurating the sister to sister relationship between Manchester and Nashville and it should be a fun ceremony. We also have a...we started a jazz at noon concert series that I started last Thursday and my good friends at Dan Pryor Auto Fair have agreed to take that on for the rest of the summer and there will be a jazz band there as well. We would like to invite the public to be here at noontime at City Hall Plaza on Thursday and members of the Board of Aldermen as well.

Alderman Gatsas stated I apologize to the Board but Item F, which was a letter from William Laforge regarding the handle to his new water meter, I didn't pull off because I thought it was a numbered item. I want to attempt to bring it up under new business and maybe we can send it to a committee because I believe when somebody gets a phone call from Water Works and is asked to come in and change a water meter and they turn a valve that was in working condition and it breaks I believe that somebody should be responsible for fixing that. Obviously the valve broke after somebody replaced the water meter so I would think that maybe we could send this to a Committee to take a look at it. I know it has been referred to Water Works but Mr. Laforge has called there several times and gotten the same answer that it is his responsibility and I don't think that is the responsibility of somebody who is paying a water bill who really didn't have a reason to change the meter.

Alderman Smith stated I think that a letter should be sent to Tom Bowen immediately requesting some action. I have to agree with my colleague that something should be done.

Mayor Baines asked why don't we forward a letter to Mr. Bowen and ask him to respond to the Board.

Alderman Gatsas answered we have already done this and I have talked to Mr. Bowen and maybe we can have this referred to a Committee – no not Administration.

Mayor Baines asked Human Resources. I think it would be Human Resources.

Alderman Gatsas answered no. Accounts maybe. Well, we will take it in Administration.

On motion of Alderman Gatsas, duly seconded by Alderman Forest, it was voted to refer Item F to the Committee on Administration.

Alderman Shea asked what are we talking about here. How much is it?

Alderman Gatsas answered I don't know.

Alderman Shea stated I know it is the principal of the thing but I mean...

Alderman Gatsas interjected it is maybe \$100. I don't know but when somebody breaks it and it was in working condition before they put the meter in I would think that the responsibility should not fall back on the homeowner.

Alderman Shea stated I am just wondering if it is a large amount.

Alderman Gatsas replied I think it is a minimal amount.

Alderman Lopez stated I don't know if it is appropriate at this time but in reference to the contract for the Police Supervisor's and Patrolmen's Association...is it appropriate at this time.

Mayor Baines asked do you want to come up and make a recommendation, Mr. Hodgen.

Mr. Hodgen stated yes I would recommend that a motion would be in order to ratify the contracts with the Manchester Association of Police Supervisors and the Manchester Police Patrolmen's Association and to make that ratification effective September 1, 2002 in accordance with the Chief Negotiator's memorandum of 8/2/2002 and the cost calculations presented tonight, August 6 with the stipulation that the parties will look at the administrative fee that is associated with extra details.

Alderman Lopez moved to ratify the contracts with the Manchester Association of Police Supervisors and the Manchester Police Patrolmen's Association effective September 1, 2002 in accordance with the Chief Negotiator's memorandum of 8/2/2002 and the cost calculations presented this evening, 8/6/2002 with the stipulation that the parties will look at the administrative fee that is associated with extra details. Alderman Smith duly seconded the motion.

Alderman O'Neil asked do we have to suspend the rules to do that.

Mayor Baines asked what is the procedure to get this ratified tonight.

Deputy Clerk Johnson answered normally the Board ratifies subject to Rule 26 but if it does not desire to do so, it can suspend that rule as part of the motion.

Alderman Lopez stated I agree with what Carol said but I want to make sure that we are also including the non-affiliated employees.

Mayor Baines asked well why don't we do the contracts first. Mr. Clark, are we okay with this?

Solicitor Clark answered the Board can suspend Rule 26 to ratify the contracts tonight.

Mayor Baines stated then the motion will be as stated.

Alderman Gatsas asked are these numbers in the budget already.

Mayor Baines answered yes. Oh, are we working with that number in the budget? Yes. We understand that that has to be met in the existing budget and it is going to be part of the package that we will be coming forward with.

Alderman Gatsas replied so it is a no.

Mayor Baines responded we are going to deal with that sum of money within the existing appropriation so in essence the answer is yes.

Alderman Gatsas stated I thought during the budget process...why did I think there was \$400,000 in the budget for...

Mayor Baines interjected what we did was we took that total number, I think it was \$875,000 and we set it aside with the understanding that it would be made up within the existing appropriation and we have been working with the department heads to accomplish that task.

Alderman Wihby asked the extra money, which wasn't a lot of money but whatever the total was, that is basically going to have to be made up in the departmental budget right.

Mayor Baines answered that is correct.

Alderman Wihby stated I think where Alderman Gatsas was going is there was a set aside number. That is no longer there. It is going to have to be made up in the departmental budget.

Mayor Baines replied that is correct and we have been working on strategies to accomplish that.

Mayor Baines called for a vote on the motion to suspend Rule 26 and ratify and confirm agreements with the Manchester Association of Police Supervisors (MAPS) and the Manchester Police Patrolman's Association (MPPA) in accordance with the Memorandum of Understanding dated August 2, 2002 and the cost calculations presented August 6, 2002, effective date to be September 1, 2002 with the stipulation that the parties will look at the administrative fee that is associated with extra details. There being none opposed, the motion carried.

Alderman Lopez stated at this time I would like to include the non-affiliated employees in conjunction with the contracts that we just passed effective September 1. Alderman Thibault duly seconded the motion.

Alderman Shea stated I am not sure if the negotiator concurs with that. Is that your recommendation?

Mr. Hodgen replied yes that would be my recommendation. We don't technically negotiate with the non-affiliated employees but this is the opportune time to do this.

Mayor Baines stated that was part of our cost estimates that we reviewed with you – implementation with the non-affiliated employees.

Alderman Wihby stated we had some sheets that we looked at. Was that one of the sheets?

Mayor Baines replied yes that was included in the analysis of implementation.

Alderman Wihby stated you never gave us a sheet on that.

Mr. Hodgen replied no we have presented the costs for the two union contracts tonight. We did not present costs for the non-affiliated employees.

Alderman Wihby asked so how do we even know what it costs. Why are you recommending that to us when we don't even know what it costs?

Mr. Hodgen answered as I said I think it is the opportune time. We would make the same health insurance savings. We would have the costs of the COLA admittedly. We did not talk about that in non-public session because it is not a union matter.

Alderman Gatsas asked is this like not adding one of those columns of numbers.

Mr. Hodgen answered no.

Mayor Baines stated the consideration all along from the way I understood it was that we were negotiating contracts and there was a history in the City to apply the same standard to the non-affiliates and I think that is why it is being recommended. I don't think there is anything unusual with the past practice here on the Board.

Mr. Hodgen stated I have some numbers and I can pass them out if you would like.

Alderman O'Neil stated I think the intent...I think we all know where the Board is going to go with this but would it be unreasonable to take that up the first of September. Usually we do see numbers.

Mayor Baines replied well David can review these numbers.

Alderman Gatsas asked can he review them now or can we go into the back room for two minutes.

Alderman Shea asked can we go into executive session.

Mayor Baines answered I don't think we need to.

Solicitor Clark stated technically you don't negotiate with the non-affiliated employees so you can't recess the meeting to meet with the negotiator.

Alderman Wihby asked when we had the discussion earlier did this come up. Was I out of the room?

Mr. Hodgen answered no it did not come up.

Alderman Lopez stated I disagree with that, your Honor.

Alderman Wihby asked why are you sitting there telling us that you agree with the motion if you never...why didn't you bring it up to us when we were sitting in non-public session.

Mr. Hodgen answered well as the City Solicitor is indicating it probably would have been improper to discuss it in a non-meeting. It is not a negotiation strategy matter. We don't negotiate with non-affiliated employees.

Mayor Baines asked is he correct on that, Mr. Clark.

Solicitor Clark answered he is correct. The Right To Know Law allows you to recess to meet with negotiators to discuss collective bargaining and you don't collective bargain with the non-affiliated employees.

Alderman Lopez stated I have to beg a difference. In executive session he passed something out and he indicated those savings. I would like to call on the HR Director to refresh some memory around here please.

Mayor Baines stated he is absolutely correct on that. The potential...if you look on the information that was handed out he listed non-affiliated and listed out the cost savings.

Alderman Wihby replied that is the savings, not the cost.

Mayor Baines stated okay I understand what you are saying.

Ms. Lamberton stated if you combine the savings from the change in the design for the health insurance and you add in the cost of the 1% COLA, as you see the cost for 10 months, which would be September through June 30 would be \$117,819 for the non-affiliated employees.

Alderman Wihby asked does that mean department heads too.

Ms. Lamberton answered yes.

Mayor Baines asked David will you go over Page 2.

Mr. Hodgen answered that basically was prepared so that we would have an idea of what the costs would be on a union by union basis for the other unions that have not been settled yet. At the bottom of the second page you have the costs associated with the Enterprise departments.

Alderman Lopez asked David and Ginny, after the total cost here the bottom line is that it falls in the \$470,000 that we programmed in the budget even though we have to find it in the departments.

Mr. Hodgen replied the answer is yes. This was money that was included in the \$470,000, which of course the Mayor and the department heads are working on.

Ms. Lamberton stated that is correct.

Alderman Wihby stated I just want to go over this sheet. On the second page is that \$128,000 a second year? Where is the second year? Is this one year?

Mr. Hodgen replied this is just the cost for this fiscal year.

Alderman Wihby asked what is the cost for the second year.

Mr. Hodgen replied I honestly don't know the answer to that. We were concerned with the budget implications for this fiscal year. I do not have the cost for the second year.

Alderman Wihby asked and what is that \$128,000 then on the second page.

Mr. Hodgen answered that would be on the assumption that all of the other unions would settle as of September 1 along the same lines and I don't think that is likely to happen. That is a 10-month figure but we are negotiating with the other unions and time will tell how those negotiations are resolved.

Alderman Wihby stated well we have two unions that we just passed. Are those the same numbers that you would have used on the second sheet?

Mr. Hodgen replied yes those numbers are the same as the others presented earlier.

Alderman Wihby asked so basically the second sheet has nothing to do with this contract. It is just the first sheet?

Mr. Hodgen answered correct as far as non-affiliated employees are concerned just the first page.

Alderman Shea asked if we were to adopt this proposal we would be adopting a two year contract.

Mr. Hodgen answered I suppose that is the intent.

Alderman Shea responded in reality that is what would happen. Unless we say it is one year, it is two years and you are saying that you don't know what the cost of the second year is going to be. Could we get some calculations for the second year before we approve it?

Mayor Baines stated I asked for that number and I am disappointed...this afternoon I asked you to put together for tonight's meeting the calculations. We realize the health insurance is a separate issue but I did ask to finalize the calculations for the second year to present this evening.

Mr. Hodgen replied I apologize, Mayor.

Mayor Baines stated it was very clear. We were in a meeting with the Finance Department this afternoon and I specifically asked for the calculations for the second year. I recommend that we table the motion on the non-affiliated employees pending compilation of the information that I requested.

Alderman Lopez stated it really bothers me very much that we have a Chief Negotiator here who went through this process with the department head and at the 11th hour we have to hold off on the non-affiliated employees when we are trying to treat all employees equal.

Mayor Baines replied I think we can still do that.

Alderman Lopez stated I know that but maybe henceforth verbal language doesn't make sense. Maybe you should write a letter to these people and tell them exactly what you want.

Mayor Baines responded well again we were at a meeting. We were all there at 11 AM and I asked that this information be put together prior to the meeting tonight. We had some general discussion about the cost but this should have been done and it wasn't.

On motion of Alderman Forest, duly seconded by Alderman O'Neil, it was voted to table the motion regarding the non-affiliated employees.

Alderman Lopez stated I have one other item. I want to bring this up because it is very important and there has been some discussion in reference to the senior center. I would like to put it to bed tonight, therefore, I would like to move that the West Side Center be the designated site for the new senior center and that we direct City staff to proceed.

Alderman Thibault duly seconded the motion.

Alderman Pinard asked am I out of order if I would like to ask to put the Wellington Road site in contention.

Mayor Baines answered yes. There will be a vote on the West Side Center as the site.

Alderman Pinard asked and this will be final.

Mayor Baines answered well it will be if it gets enough votes to proceed, majority votes to proceed I believe.

Alderman Guinta asked did we vote on this at our last meeting.

Mayor Baines answered yes.

Alderman Guinta asked what was the vote and what exactly were we voting on.

Mayor Baines answered to designate the site as the West Side.

Alderman Guinta asked so we essentially are going to vote on the same thing tonight. Is that what Alderman Lopez is asking?

Mayor Baines answered that is correct.

Alderman Smith stated well point of information because now it has been bonded.

Alderman Gatsas stated there has been no site bonded. The dollars have been bonded.

Mayor Baines asked so how many votes would it take to designate a site.

Alderman Gatsas stated thank you for bringing that up because anybody who voted in the affirmative can move for reconsideration.

Mayor Baines asked, Mr. Clark, how many votes would we need to approve a site.

Solicitor Clark answered the bond has already been approved so it is a simple majority.

Alderman Gatsas asked but we can make a motion for reconsideration on the bond issue.

Mayor Baines answered that is correct. The vote would be on the site. The City Solicitor has ruled that it would simply take a majority vote on the site.

Alderman Shea stated if memory serves me correctly, I thought that Bob MacKenzie as doing an evaluation of different sites. I know that I toured the Gale House today and there was, I think, an analysis that was going to be presented to the Board regarding the cost relative to different sites.

Mayor Baines replied I have a problem with that because the Board has already taken a vote that the Health Department was to be located at the Rines Center. A sub-Committee does not have any authority to supercede the vote of the Board. It would not be appropriate for a sub-Committee to take a vote to instruct staff to do anything in that regard once the Board of Aldermen has taken an action. They also voted not to reconsider it so you should have been advised at that meeting...first of all the Chair of the Committee was advised at the meeting that he couldn't vote and it would have been a two to two vote. The Chairman of the Committee can vote. I don't believe, unless the Board...it would be my interpretation as Mayor and Chief Executive Officer that the staff not be engaged in any efforts of that kind unless the vote was changed at the full Board and that would be up to the Board.

Alderman Shea stated your Honor as you know I am not interested in the Gale House and certainly the Rines Center is occupied by the Health Department but my concern is that if the vote tonight is 7-7 I would ask then for the consideration for another site in terms of the seniors. We really have to do something and I know that there are certain people who have made commitments or statements or they really feel strongly about, including yourself, where the site might be. The problem is that we really and I think Alderman Garrity indicated that we really have to do something for the seniors. The point is that if we decide tonight that the West Side doesn't have the votes can we consider another site that maybe does have the votes because obviously if we are entrenched in a position we are not going to

move off center. There is no way that it is going to result in the vote being...whatever the case is you breaking the tie and then not getting the bonding and so forth. The losers are going to be the seniors. The point is that we are going to be going around a merry-go-round and obviously it is not going to help.

Mayor Baines stated I am ready to forget about the merry-go-round and make a decision on this because I think the time has come.

Alderman Smith stated as you well know I supported a West Side Center from when I was Alderman Elect and I gave several reasons. I heard a couple of people tonight say clean air and so forth. We just had the trailway and now we are going to have the Hands Across the Merrimack. We have the river there. We have the hospital. The library will double in space. As you well know we went to a luncheon today and I would say that out of the 300 people that were there, 250 expressed their opinion for the West Side. Half of the people who attend the West Side Center are from the East Side and that is pertinent information.

Alderman Thibault stated based on what we have heard here from Alderman Smith I would certainly have to agree your Honor that...you know we can thrash this thing around for the next 20 years. Why don't we find a site in Exeter or in Goffstown or in Sunapee. We can always come up with a new site. The point, in fact, here is that most of the seniors want it where it is on the West Side and the reason for that and I would have to give Alderman Smith credit for that, he went out to look at the O'Malley, the Kalivas, the Pariseau and the Burns high rises and within a mile of all these places is the West Side Center. Again, I have to give credit to Alderman Smith that the center of the City of Manchester years ago was designated as Main Street and that is on the West Side.

Mayor Baines stated we already heard this at the luncheon this afternoon but it was nice to hear it again.

Alderman Gatsas replied well I didn't hear it and I am glad I did.

Alderman Osborne stated I just want to bring up a couple of points here. Number one, there was just a new project put in up on Candia Road of 149 units and that is for 55 years and older. This is not a remote anymore. Wellington Road will never be remote 20 years from now. It will be in the Center. I still feel that there is no room on the West Side. There is no room for expansion. There is not enough parking. There is not enough air if you want to put it that way. I think that Wellington Road is the ideal spot for expansion and it gives the future seniors a lot more to look forward to. We are talking now but we are talking 20 years from now and a lot of us probably won't be around then but there are others who are going to be and I don't think there is going to be enough room on the West Side period. I strongly oppose the West Side.

Alderman Gatsas stated I believe two years ago or maybe a little less than that I did a survey in Ward 2 and I had Aldermen telling me that the wording that I put in place was wrong and the returns were wrong and obviously we are coming to a point where I think the seniors are intelligent enough to make a decision and I think it should be a City wide decision for seniors in Wards 1 through 12. I think if this Board were to take a look at where we are going with the elections, we have three elections that we can chose from and I am sure we can find people to sit outside and have seniors cast their ballot for whatever choice they want – the West Side, Wellington Road or the Gale Home. I think maybe that input may be important for all of us to hear because Ms. Robie was here this evening and she spoke about fresh air and I think about a month ago she was here saying that the West Side was a great spot and I think it is really time that we take an opportunity and let all of the seniors in the City have at least a voice so we can see what they are thinking. I brought that up to Alderman Lopez a couple of weeks ago and he was in agreement with it. Now I would think that this Board would take an opportunity to take a look and see what the seniors across the City have to say. I understand the seniors that go to the West Side Center and East Side Center have voiced their opinions. I think that the seniors I heard from in Ward 2 voiced their opinions. I think that there are seniors in Ward 1 and 7 and 5 that would like to express their opinions. I think it gives us an opportunity to get a statement from across the City and I think the Aldermen at that point can make a value judgement of what the seniors are saying and what they would like to do. If we feel that it is a democratic situation and the seniors have an opportunity to participate, then let's take that attempt. I am willing to let the chips fall where they fall. If the seniors come back and say it is Wellington Road or if it is the West Side or if it is the Gale Home I don't have a problem going along with that.

Alderman Smith moved to move the question. Alderman Thibault duly seconded the motion. Mayor Baines called for a vote. A roll call vote was requested. Aldermen Lopez, DeVries, Garrity, Smith, Thibault, Forest, Sysyn, and O'Neil voted yea. Aldermen Shea, Wihby, Gatsas, Guinta, Osborne, and Pinard voted nay. The motion carried.

Mayor Baines called for a vote on the main motion to designate the West Side as the site for the new Senior Center and direct the City staff to proceed. A roll call vote was requested.

Alderman Gatsas asked if the vote is in the affirmative for the West Side Center and there is subsequently a vote for reconsideration on the bond issue and that passed, would that then mean that the senior center at the West Side Center would be a moot point.

Mayor Baines answered it would be my understanding and, Mr. Clark, follow my logic here that if there were a vote to reconsider and you reconsider the bond and you didn't pass the bond then obviously we would be back to square one. That is correct.

Alderman Gatsas asked so if it was my belief or if it was somebody's belief that the parliamentary process is to allow seniors in the City to vocally express their opinion they would vote no now.

Mayor Baines replied I can't answer that question. That would be up to you. You could characterize your own vote the way you want to. You know where I stand on this issue.

Alderman Gatsas asked I am talking on this motion here. If it were of the opinion that the seniors should have an opinion on where the senior center would go then they would vote no now.

Mayor Baines answered I guess you would have to vote not to have the West Side designated as the site. Discussion is over. That was a parliamentary question.

Alderman Shea stated I have a parliamentary question. If the vote is in favor of the West Side as the site, does that mean that is the final answer here.

Mayor Baines replied yes.

Alderman Shea asked but the bonding still has to come.

Mayor Baines answered no the bonding has already passed. You would have to reconsider the bonding.

Alderman Shea asked do you need 10 votes for bonding.

Mayor Baines answered you already passed the bond unanimously.

Alderman Shea asked so basically what is happening is those who want the West Side can come in with a...can you vote on that.

Mayor Baines replied yes I can vote and I will.

Alderman Shea asked so if it is 7-7 you can break the tie and then the final decision is it is the West Side and no other site.

Mayor Baines answered yes unless a motion to reconsider the bond were to pass.

Alderman Shea asked so if I were to vote for the West Side I can bring it up for reconsideration when I vote in the affirmative.

Mayor Baines replied would you ask that question again.

Alderman Shea asked if I were to vote yes for the West Side even though obviously that is the site that I am not interested in but to be controversial I could then reconsider it.

Solicitor Clark answered it would be two separate motions.

Mayor Baines stated you could do it afterwards. I suggest you do it tonight so we can resolve this issue once and for all.

Alderman Wihby asked, Tom, if we wanted to change our vote from earlier can I do that.

Solicitor Clark asked which vote are you talking about.

Alderman Wihby answered on the bonding.

Solicitor Clark replied no. You can't change your vote.

Alderman Wihby asked you can't change your vote you have to reconsider.

Solicitor Clark answered you could reconsider or the Board has the ability to make a motion to rescind that vote.

Alderman Gatsas asked if I were Alderman Shea and I voted in the negative on the West Side Center could I then make a motion for reconsideration at the next meeting.

Solicitor Clark answered under your rules you could give notice to bring reconsideration up. However, as this Board has been advised for the last 25 years, each session of the Board is a separate session under the law. The court has ruled on that on numerous occasions and if the Board wished to change its mind at a separate meeting they could bring another motion again regardless of your rules on reconsideration.

Alderman Gatsas asked and if he voted yes in the affirmative then he would make his motion for reconsideration this evening or it doesn't matter.

Solicitor Clark replied that is the way your rules read if you want to follow your rules.

Mayor Baines called for a roll call vote on the motion to designate the West Side as the site for the senior center and directing City staff to proceed. Aldermen Lopez, DeVries, Garrity, Smith, Thibault, Forest, and O'Neil voted yea. Aldermen Shea, Wihby, Gatsas, Guinta, Sysyn, Osborne, and Pinard voted nay. Mayor Baines broke the tie and voted yea. The motion carried.

Deputy Clerk Normand stated the Clerk has an item of new business.

A report of the Committee on Traffic/Public Safety was presented recommending that a request to close Pine Street, between Concord and Amherst Streets; Concord Street, between Pine and Elm Streets; and Elm Street, between Concord and Central Streets on Saturday, August 17, 2002 from 8:30 AM-10:30 AM for the Latino Festival parade be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.

On motion of Alderman Lopez, duly seconded by Alderman DeVries, it was voted to accept, receive and adopt the report.

Deputy Clerk Johnson stated we additionally had distributed to the Board an ordinance:

“Amending Section 30.09 (C, D, E, and F) Salaries of Officers of the Code of Ordinances of the City of Manchester.”

This is a result of the earlier action of the Board with regards to the ballot inspectors, moderators, ward clerks and selectmen. Based on that, before the next meeting of the Board we would be looking to do a payroll so we are asking that the Board consider suspending the rules to place the Ordinance on its final reading at this time without referral to committees.

On motion of Alderman Pinard, duly seconded by Alderman Forest, it was unanimously voted to suspend the rules and place the Ordinance on its final reading without referral to the Committee on Bills on Second Reading and the Committee on Accounts, Enrollment and Revenue Administration.

On motion of Alderman Pinard, duly seconded by Alderman Sysyn, it was voted to read the Ordinance by title only and it was so done.

This Ordinance having had its final reading by title only, Alderman Thibault moved on passing same to be Ordained. Alderman Forest duly seconded the motion. There being none opposed the motion carried.

Alderman Gatsas stated in deliberation with the City Solicitor and the Finance Director, there is some confusion on making a motion for reconsideration on the bond issue and whether we can do it at this meeting or the next meeting. There is a difference of opinion between the two. I don't want to lose the opportunity of reconsideration.

Solicitor Clark stated the confusion is...I wasn't here at the last meeting when the bond resolution passed. Was there already a motion for reconsideration on that?

Mayor Baines replied no.

Solicitor Clark stated normally under your own rules...if you are going to follow your rules the motion for reconsideration would be made tonight and voted on. However, I believe that

as each session is a separate meeting this Board does have the ultimate authority to rescind that action at a later date. The question is whether or not that recession would take 10 votes or a simple majority.

Mayor Baines stated subject to the Mayor's veto.

Solicitor Clark replied correct. Every action is subject to the Mayor's veto.

Mayor Baines stated I would rule that the reconsideration must take place tonight based upon the advice of the City Solicitor.

Alderman Gatsas stated well how would that infringe on Bond Counsel.

Solicitor Clark replied it is still going to take 10 votes.

Mayor Baines stated I would ask for a motion to reconsider tonight and get the vote done. You are going to have to have 10 votes to reconsider. We can keep voting on it at every single meeting from now on. The vote was 7-7 and you have to have 10 votes to get this thing reconsidered because I will veto. We can do this at every single meeting but if people stay firm to their 7 votes it is never going to change. Let's get it over with.

Alderman Gatsas moved to reconsider. Alderman Shea duly seconded the motion.

Alderman Gatsas stated I made a statement about allowing the senior citizens of this community to have an opportunity. Obviously you took it as a statement and not as a motion. Obviously that is your prerogative as the parliamentarian of this Board. I feel it is bad that we didn't let the seniors have that opportunity. I think that the seniors throughout the City have the right to make that vote. I think we have sat here as a Board for a year and a half listening to Aldermen saying if this doesn't happen then I will do that but when it comes time to do that their minds change. Obviously I give people credit tonight because the bond resolution flew through without really anybody paying attention so for the people who succeeded at what they were looking to do, I give them a good congrats and for the people who missed it, I say shame on us but I think there will be another day and I think it is too bad that we put all the seniors at risk for not giving them an opportunity to voice their opinion on where they are going so let's move the question.

Alderman Smith stated I take a little bit of offense to my colleague from Ward 2. I believe that I acted fairly as an Alderman Elect. I made a decision. I don't know...you are saying the seniors don't want to be there. You had to be there today. Any discussion...I talked with people like Mrs. Dionne from Bridge Street Extension. I talked with Elderly Services. 25% or more come from the East Side. You say you want a senior center but we are playing games. The numbers are there. Let's put it to bed tonight and go home.

Alderman Shea stated I don't think there is anyone who has been more interested in the seniors than myself. I have been right on a few issues in the past and I am telling you citizens now that we will put it on the West Side because that is the consensus but within a 10 year period it will be far sighted because I know that there is no room over there for expansion and we are putting it in an area that has limitations. We all know the limitations whether it be the neighborhood or the proximity to different things. I know that it is going to pass because obviously we have no way of stopping it but I am still of the opinion that we are putting it in the wrong place and I want that expressed because in the years to come and probably I won't be around but in years to come we are going to have to look for another site within a 10 year period because the people who are now 55 years old are going to be 65 and the people who were at the Chateau are expressing their wants and their needs today but they are not going to be around in the next 10 years unfortunately. Maybe they will and God Bless them if they are but it is not the proper site in my judgement. I don't want to have a referendum because if we were to have a referendum on this we would probably have a referendum on Livingston Park, the Riverwalk, etc. My point, your Honor, is I give the people credit for passing this through first with the bonding and now with the site and hopefully it will be to the seniors benefit that we have it there but in my judgement we are putting it in the wrong place.

Mayor Baines stated but for the record and I am sure you will appreciate this because I have great respect for you but you did support this site.

Alderman Shea replied I did support the West Side site because it was the only site but when I saw Wellington Road I reasoned that that is the better choice.

Alderman DeVries stated I was offered a gem this afternoon from one or two of the seniors when I was visiting at the Gale Center and they expressed to me that this is not the first time that the senior center has moved around the City. They have tried several locations on the East Side previously, none of which have ever been successful in bringing increased numbers to their facilities. The only time that they have a great amount of participation is on the West Side at the current location and that is why they maintain they are so adamant that they want to develop that facility. It is the only proven location in history. I wanted to further note that if somebody on this Board wishes to finally bring to closure the issue of a senior center they should be voting no on this motion.

Alderman Shea asked may I follow-up for just a moment. The initial proposal and I think the two ladies in the audience will agree, the initial proposal for the West Side was introduced at one of our meetings by Rich Girard. He came in and he was dismissed. He is the original person who came in to our Committee in 1999 with a proposal to put the West Side senior center on the site where it is going to be placed. He came in to our meeting over in one of the conference rooms. He is the original person that came in and said that is where the senior center should go. If it is going to be placed there, then I would say he must be

home now chuckling because he is the one who could not get approval. It was dismissed right away but now it is coming to fruition that Rich Girard has proven to be correct.

Mayor Baines replied again I wasn't here then but we did a lot of surveying and Alderman Cashin was very involved in bringing this to a head and having us focus on that site.

Alderman Gatsas stated if I was here then you had to be here, Mayor. When Rich Girard came to the Committee I was on that Committee.

Mayor Baines replied well he said 1999.

Alderman Lopez stated I share a lot of the same thoughts that Alderman Gatsas has stated but at the same time I share Alderman Shea's thoughts about putting referendum questions on the ballot. I brought this up tonight for the seniors. This thing has been driving the staff crazy and I venture to say that if we did a work study on how much it has cost this City to make a decision on the senior center, I would venture to say that it is well over \$100,000 that we could have used for something else. Final comment. If there was no other way, Alderman Gatsas...

Alderman Gatsas interjected let me just help you. I want to help with the pronunciation of my name. It is Gatsas. Thank you.

Alderman Lopez stated anyway as an elected official making a decision we don't need to keep putting everything on the ballot and having everybody making decisions. Therefore, I think we ought to move the motion and get it over with.

Alderman Guinta stated I can certainly appreciate the amount of time that the seniors have waited for a senior center and I can appreciate the previous Boards in their deliberations in trying to achieve that goal. That being said, we have a responsibility as a Board to look at this as a policy decision and Alderman Shea brings up a very, very important point. We are solving a problem today for the current seniors but it will recur within the next 10 years assuming the next census data has an increase in the number of seniors that reside in the City of Manchester. I personally don't think that the West Side is the appropriate spot for that very reason. We can't look at this decision simply to pacify people who are here today. We have to consider how this decision impacts the people who are going to be using this center five years from now, ten years from now and twenty-five years from now because in ten years I would assume that whoever is sitting here will be going over issues of we don't have enough parking, we don't have enough space to accommodate whatever level of seniors we may have at that point and what are they going to do? Are they going to shut down that area and spend another \$2, \$3, \$4 or \$5 million? I think everybody should recognize that everyone at this table wants to have a senior center. The question is what is the most viable alternative. Not necessarily for today but for the future and when we vote on this we should

make that consideration that while a number of people do want the senior center on the West Side, a number of people do not. My reasons for not voting for the West Side have nothing to do with East versus West. It has everything to do with the consideration of today and tomorrow's seniors. It has to be extremely important when we as a Board review decisions of policy. We can't just simply "put this to bed" because we have been talking about it for a long time. We have to consider what is going to happen in the future and I think that while everyone is tired and has gone through painstaking time and energy and money in dealing with this issue, it is our responsibility to continue to do that until we obtain a site that is appropriate for the long-term. Alderman Shea brings up a good point. He was for the senior center on the West Side because there was no other alternative. However, other alternatives exist and while I don't want to prolong it for years and years and years, we are going to be making a mistake if we put it at the West Side today because within 10 years the new Board at that point will be looking to change the site simply because it will no longer be able to accommodate the seniors within a 10 year period. I don't want to be in the way of stopping a senior center but I think it is very appropriate for us to consider a longer term vision and I think that is what we are lacking in this discussion tonight.

Alderman Osborne stated for the six months that I have been here all we have been talking about is the high rises. I have no objections to the high rises but there are elderly people out there that live in apartments and own their own home and they outnumber the high rises. There is roughly 20,000 on the East Side and only 5,000 on the West Side from what I understand. As far as the referendum question, this Board has been tossing it around for three or four years. If you can't make up your mind why don't you let the people make up their mind. That I can't see. It doesn't make sense to me. You keep saying just to push it off but this is not the right way to do things really. Basically I did work hard on this. We did go on TV on Monday and it was aired tonight on the Don Welch show to try to get out and get more ink on the Wellington Road site. The problem with Wellington Road is it didn't have enough ink and there wasn't enough time. If Wellington Road would have been there three years ago, they would be sitting in a building now at Wellington Road. I would bet on that. From that, I hope all the seniors are happy because I think they are going to be sorry five years down the road. Like I said there is no parking. There is no place to go.

Alderman Garrity stated as you know I spent the afternoon at the senior luncheon today over at the Chateau and they overwhelmingly supported the West Side for the senior center. Like I said to the folks there, some Aldermen are going to have to be willing to compromise. I am one of those Aldermen. I want to get the senior center behind me and I want to get it built. There is room for expansion to the West of the senior center so I think there is still room for expansion if 10 years down the road we need to expand the senior center.

Alderman Thibault asked what is wrong with moving the library out of there if ever the senior center needs more room. We will just get the library out of there. That is not a problem.

Alderman Gatsas stated the last I knew, this Board had a Committee procedure. You put people on committees so that we could hear various things about this City, make a decision and bring it to the full Board. This is now the third time that I have seen that a Committee has asked for something and somebody has usurped the Committee responsibilities. I think it is unfair that we sit on a Committee and hear testimony from people and talk about issues and we then wait for rebuttals from staff to bring things in and then we sit here as a full Board and somebody brings in a motion before the Committee has an opportunity...I can tell you, your Honor, that I am going to look at every Committee motion that comes in and if I see something that the Committee is going to look at and it has come in before I am going to bring it to the full Board so that Committee doesn't have that opportunity because I think it is only fair that what is good for the goose is good for the gander. I think it is unfair that we have Committees, we change those decisions at the full Board that the Committees make or send them back and look for changes and I don't think that is right. I think you put this Board together with Committees so that we all have an opportunity. Now we are sitting in Lands and Buildings and we assume that somebody is coming back with information about the Gale Home and the Wellington Road site and here we are as a body and now we don't have that opportunity. I don't think that is fair.

Alderman Thibault replied I would have to say something on that because what happened here is at the time that we made the decision in the Committee this Board had already voted twice to go against that. It was a mistake in our Committee to bring it back up. As I understand it, that is what it was.

Alderman Gatsas stated the Committee motion and the City Clerk was here was first we were going to get finalized numbers for Wellington Road and we were going to get numbers for the renovation of the Gale Home. Those were the two motions. I then threw in can we look at what it would be for the Rines Center for the seniors. We certainly should have not superceded the two motions that came forward to that Committee with the Gale Home and Wellington Road.

Alderman Thibault responded let me just say again that at that point this Board as a whole had voted twice not to send it back to Committee. Am I right?

Alderman Forest stated I think there were three Boards prior to us who have discussed this subject and we are right back on it. Can we move the question?

Alderman Wihby stated my comment is I think we all know where this is going to end up anyway but I want to go back to Alderman Shea's comment. Is part of this motion to name this the Richard Girard Senior Center?

Alderman Pinard stated I think it has been a long day for all of us and it has been a long time for me in looking for a senior center and I am still against the West Side. I would like to say now to the six or nine people living on the West Side should start looking for a house and good luck. To the taxpayers of the City I want to say that we had a chance to use land that we own but now we are going to have to spend a few million dollars on the West Side.

Alderman Forest made a motion to move the question. Alderman DeVries duly seconded the motion. Mayor Baines called for a vote. There being none opposed, the motion carried.

Deputy Clerk Normand stated the motion is for reconsideration of the vote on the bond resolution for the senior center project.

Alderman DeVries asked so if somebody wishes to continue having the senior center placed on the West Side of Manchester and bring closure to this tonight they should be voting no.

Mayor Baines answered that is correct.

Alderman Gatsas stated if you believe that the process that we have undertaken this evening by usurping the Committee...would I then vote yes for the bond procedure.

Mayor Baines replied that would be your interpretation of the vote. It would bring the bond back up for consideration.

Mayor Baines called for a vote. Alderman Wihby requested a roll call vote. Aldermen Wihby, Gatsas, Guinta, Sysyn, Osborne, Pinard and Shea voted yea.

Aldermen O'Neil, Lopez, DeVries, Garrity, Smith, Thibault, and Forest voted nay. Mayor Baines broke the tie by voting nay. The motion failed.

There being no further business, a motion of Alderman Wihby, duly seconded by Alderman Pinard it was voted to adjourn.

A True Record. Attest.

City Clerk